

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ALBERTO CONCEPCION,
Plaintiff,

"J U R Y B Y T R I A L"

D E M A N D E D

vs.

D. ORTIZ,
(WARDEN, AT F.C.I FORT DIX);
. BRINSON,
(CAPTAIN, AT F.C.I FORT DIX);
J. DIXON,
(COUNSELOR, AT F.C.I FORT DIX);
K. SMITH,
(CASE MANAGER, AT F.C.I FORT DIX);
JANE DOE, 1, 2, & 3,
(STAFF MEMBERS, AT F.C.I FORT DIX);
JOHN DOE, 1, 2, & 3,
(STAFF MEMBERS, AT F.C.I FORT DIX);
A. BOYCE,
(DHO OFFICER, AT F.C.I FORT DIX);
MARK INCH,
(FBOP, DIRECTOR); &
M.D. CARVAJAL,
(NORTHEAST REGIONAL, DIRECTOR);

Defendants.

: CIVIL ACTION # 3:18cv1103

FILED
SCRANTON

MAY 29 2018

PER JH
DEPUTY CLERK

BIVENS COMPLAINT/AFFIDAVIT/MEMORANDUM OF LAW/BRIEF
IN SUPPORT OF THIS CAUSE OF ACTION

NOW COME'S, Pro Se Plaintiff, ALBERTO CONCEPCION (PLAINTIFF, AND/OR A/C), waving no powers, rights, and/or immunities due to the use of said private international copyrighted statutes-codes; respectfully placing this Bivens Cause of Action, & Affidavit.., for money damages, inter alia, before the U.S. District Court for the Middle District of Pennsylvania (COURT), due to the Defendants, implemented acts of official misconduct, planting evidence, abuse of power under color of federal law,

false statements, & information in their "own created" government documents, aiding, & abetting, interstate commerce, & the unlawful seizure of some of the Plaintiff's ("PROPERTY"), legal material, reading material, & a minimum of one book, including the Plaintiff's, Civil, & Constitutional Rights, inter alia, being violated by said Defendants, of which said misconduct, & violations, inter alia, were committed directly, & indirectly by the named Defendants, in this matter now before this Court.

1-- Plaintiff, A/C, being duly sworn, deposes, say, & declare's under penalty of perjury, pursuant to 18 U.S.C. § 1001, & 28 U.S.C. § 1746, that this prima facie case, evidence, & facts herein are completely true, correct, & are as follows:

2-- Plaintiff, A/C, is without counsel, therefore, he is relying on Haines v. Kerner, 30 L.Ed 2d 652 (S.Ct. 1972); & Estello v. Gamble, 429 U.S. 97, 105-06 (S.Ct. 1976).

3-- Plaintiff, A/C, is placing this Bivens Cause of Action, & Affidavit., before this Court in good faith, for good cause, without prejudice, & not for any delay.

4-- The named Defendants, and/or their counsel(s) of record (COR), "are not" involved in any military service(s); "& are not" infant's, and/or incompetant individual's.

5-- Plaintiff, A/C, is of full age, & he has first hand personal knowledge of what occurred at F.C.I Fort Dix P.O. Box 2000 (P.O. BOX 038, IS FOR STAFF ONLY) Joint Base MDL, New Jersey 08640 (FTD) on May 18, 2017, & prior to this specified date, regarding this matter now before this

Court.

6-- This Bivens Cause of Action, & Affidavit.., is containing genuine material prima facie issues, fact findings, & supporting case law, regarding this matter, of which said facts, & evidence, inter alia, "are contained within the Defendants, own created documents" that were complained about to the FEDERAL BUREAU OF PRISONS (FBOP), & to a minimum of two other federal government agencies, of which said government agencies "did receive said complaints" that were filed by the Plaintiff, & one of his family member's, but were ignored by those federal agencies.

JURISDICTION OF THIS COURT

7-- This Bivens Cause of Action, & Affidavit.., arises under violations of the federal laws, & that of the U.S. Constitution, particularly under the provisions of the 1st, 4th, 5th, 6th, 8th, 9th, 10th, 13th, & 14th Amendment Rights, inter alia, of Plaintiff, A/C; as this Court has subject matter jurisdiction over this matter under 28 U.S.C. § 1331.

PARTIES INVOLVED

8-- The parties in this matter are those listed in the caption of this Bivens Cause of Action, & Affidavit..; as each Defendant, is described below.

9-- Defendant, D. ORTIZ, is the Warden at FTD, & he is being sued in his individual capacity in this matter.

10-- Defendant, . BRINSON, is the Captain at FTD, & he is being sued in his individual capacity in this matter.

11-- Defendant, J. DIXON, is a counselor on the eastside compound in unit 5752, at FTD, & he is being sued in his individual capacity in

this matter.

12-- Defendant, K. SMITH, is a case manager on the eastside compound in unit 5752, at FTD, & she is being sued in her individual capacity in this matter.

13-- Defendant(s), JANE DOE, 1, 2, & 3, is an unknown prison employee at FTD, & is being sued in her individual capacity in this matter.

14-- Defendant(s), JOHN DOE, 1, 2, & 3, is an unknown prison employee at FTD, & is being sued in his individual capacity in this matter.

15-- Defendant, A. BOYCE, is the DHO officer at FTD, & he is being sued in his individual capacity in this matter.

16-- Defendant, MARK INCH, is the Director for the FBOP corporation who suppose to over-see his co-defendants, & employees of it's corporation's operations; as he is being sued in his individual capacity in this matter.

17-- Defendant, M. D. CARVAJAL, is the Director of the NORTHEAST REGIONAL OFFICE (NERO), who also suppose to over-see his co-defendants, & numerous other federal correctional institutions within this region; as he is being sued in his individual capacity in this matter.

STATEMENT OF THIS CASE, & FACTS

18-- On Dec. 17,1999, A/C, was allegedly indicted at the U.S. District Court for the District of (NEWARK) New Jersey (NJDC), on two out of five Counts; with possession with intent to distribute 100, or more grams of heroin under 21 U.S.C. §§ 846, & 841(a)(1). On July 7,2000, A/C, was given a 325 month federal prison sentence.

19-- On Nov. 30, 2007, Plaintiff, A/C, arrived at FTD, & was assigned to the eastside compound (ESC) unit 5711.

20-- During the time that A/C, was on the ESC, he was given a minimum of four incident reports, & was placed in the SHU, four times for said incident reports, & one alleged S.I.S investigation; as all of the incident reports were given to Plaintiff, A/C, "within" a nine (9) month period (INBETWEEN 2007, & 2008), of which said fabricated incident reports, & the placement in the SHU, "were all in retaliation" of A/C's, filing of his administrative remedies "against prison officials on the ESC, *inter alia*", at FTD, of which these specified prison officials "were all assigned" to work on the ESC, as counselors, & a unit manager. See, Copper v. Pate, 12 L.Ed 2d 1030 (S.Ct. 1964).

21-- Sometime in the early year of 2012, Plaintiff, A/C, "checked himself into the SHU", because his counselor was harassing, & threatening him by stating that he was going to place ("PLANT") a cell phone in his locker. Once A/C, was released from the SHU (AFTER DOING 53 DAYS), "he was assigned" to the westside compound (WSC) unit 5812.

JUDICIAL NOTICE (NOTICE): FTD, prison has "two separate" compounds known as the WSC, & the ESC.

22-- On March 15, 2017, Plaintiff, A/C, "was moved" from the WSC, back to the ESC, "for no reason(s)", & was assigned to unit 5752, cell 214-2U. On March 16, 2017, A/C, "was moved" to a two man cell in unit 57-52, cell 307, bed, & locker 1-L, with inmate BENJAMIN RESTO, #16278-054 (RESTO). Said cell movement was made by Defendant-counselor J. DIXON, from unit 5752.

23-- On Thursday May 23, 2017, a cell shakedown was conducted at FTD, in unit 5752, cell 307, by C/O J. HARRIS.

NOTICE: C/O J. HARRIS, has been working in unit 5752, from 4:00 to 11:55 p.m., for approximately two months, "& at no time" during those two months did C/O HARRIS, ever shakedown a two man cell in said unit (5752) until May 18, 2017.

Moreover, during C/O HARRIS, shakedown of Plaintiff, A/C's, cell (307) on May 18, 2017, C/O HARRIS, and/or the compound C/O "never" search locker 1-L, of which said locker (1-L) was assigned to A/C, by prison official's at FTD.

24-- After the shakedown by C/O HARRIS, Plaintiff, A/C, told his celly (RESTO) that he was leaving, & going to the Lt.'s office, because his legal material was all over the cell, but A/C, & RESTO, were both placed in the SHU, on the night of May 18, 2017, due to some contraband that was allegedly found "in a safe" in cell 307, behind locker 2-L, by C/O HARRIS ("NOT NAMED AS A DEFENDANT, IN THIS MATTER").

25-- In the May 18, 2017, incident report C/O HARRIS, stated therein that the contraband that was found in cell 307, was found in a safe "outside, & behind locker 2-L", on the bottom of the left corner of said locker, of which locker 2-L, belong to inmate RESTO. SEE, Ex: C-1 - C-4, herewith.

26-- On May 19, 2017, A/C, requested to see S.I.A (INTERNAL AFFAIRS) for the purpose of filing a complaint against Lt. ANDERSON, who requested A/C (& RESTO), to be placed in the SHU.

NOTICE: FTD, prison officials, including Defendant-Warden, D. ORTIZ, "refuse" to let Plaintiff, A/C, file a complaint with the S.I.A officer.

27-- On May 23, 2017, A/C, was advised during his first UDC, hearing with Defendant-counselor J. DIXON, of his inmate rights at discipline hearing (IRADH), in which said forms contained a federal register number (#09758-087) "that did not belong to inmate A/C". SEE, Ex: C-5 - C-8, herewith.

28-- On May 27, 2017, S.I.S Lt. ATKENSON, ask A/C, why did he want to speak with the S.I.A officer; A/C, responded by telling him that the contraband found in cell 307, "was planted on him", & that he wanted the S.I.A officer to conduct an investigation; Lt. ATKENSON, then attempt to convince A/C, from speaking with the S.I.A officer.

29-- On June 1, 2017, A/C, was before Defendant, DHO officer BOYCE. BOYCE, then read the May 23, 2017, IRADH form that was signed by A/C, prior to the DHO hearing, in which contained a federal register number (#09758-087) "that did not belong to A/C", of which BOYCE, never acknowledge this fact during the DHO hearing. A/C, requested BOYCE, "to dismiss" the May 18, 2017, incident report, because the contraband was found in a common area, & C/O J. HARRIS, "did not" properly write the incident report. Once BOYCE, acknowledge A/C's, facts being true, BOYCE, then told Plaintiff, A/C, that he was going to postpone the DHO hearing, "because he needed to speak with the Captain (DEFENDANT, BRINSON)". SEE, Ex: C-5, herewith.

NOTICE: "None" of the cells-inmates sleeping quarters at FTD, have locks on said cell doors; "therefore, giving access" to a minimum of 350

inmates that are living in that one unit (5752) to any other inmate(s) cell. That fact is a part from approximately one thousand six hundred (1,600) other inmates on the ESC, "having access" to all of the units, & inmates sleeping quarters-buildings during the entire day, & evening hours when the compound is open for movement(s).

30-- On the evening of June 1, 2017, Plaintiff, A/C, "was served" with an Amended incident report, in which contained false information therein, & the correction's of A/C's, remarks that he made to Defendant-DHO officer BOYCE, earlier that morning during the DHO hearing that took place on the morning of June 1, 2017. SEE, Ex: C-9 - C-11, herewith.

NOTICE: Plaintiff, A/C, asserts, & contends that DHO officer BOYCE, advised, & requested Defendant-Captain, BRINSON, and/or C/O J. HARRIS, to re-write the May 18, 2017, incident report against A/C, & inmate RESTO, by saying as follows: Since this was a two man cell, "**& only one locker was unsecured**", I am charging both inmates with those charges...

Moreover, after Plaintiff, A/C, read the new Amended incident report on the evening of June 1, 2017, "he again requested to see S.I.A", for the purpose of filing a complaint against C/O J. HARRIS, being that "**he knowingly falsified information in his Amended incident report**".

31-- On June 7, 2017, A/C, was informed, & signed a second IRADH form with counselor J. GONZALAZ, from unit 5752. During said UDC, hearing A/C, "**was misinformed**" of his alleged committed prohibited act under code 107, by GONZALEZ. During said UDC, hearing A/C, advised GONZALEZ, that he wanted inmate RESTO, "**to be his witness**" at the DHO hearing; GONZALEZ, acted as if he put RESTO's, name on the attached form to the IRADH, but

instead counselor GONZALEZ, put the name of inmate JOSE COLON, #66267-050; a inmate that Plaintiff, A/C, "never knew, and/or never had contact with" on neither compound until he was placed in the SHU.

NOTICE: Plaintiff, A/C, asserts, & contends that the accused prohibited act under code 107, that he was advised of violating, & that he allegedly violated is for a hostage situation, of which no such prohibited act was ever committed by A/C, nor was A/C, given a incident report- Notice of such committed violation. SEE, Ex: C-12, & C-13, herewith; & Gilbert v. Selsky, 867 F.Supp. 159, 166 (S.D.N.Y 1994); & Copper v. Pate, supra.

32-- On June 22,2017, A/C, was before DHO officer BOYCE. During said DHO hearing Plaintiff, A/C, advised BOYCE, "that he was wrong, & prejudice him, inter alia", by advising Captain BRINSON, and/or C/O HARRIS, to correct the May 18,2017, incident report; as oppose to dismissing said incident report against A/C. SEE, Pg. 7, at ¶ 29, herein.

Moreover, A/C, advised BOYCE, that he was moved from the WSC, to the ESC, on March 15,2017, "for no reason(s)"; A/C, then ask BOYCE, "where was inmate RESTO", who was his requested witness ? BOYCE, then told, & did show A/C, a document showing that RESTO, "was not" on the witness list; however, Defendant, BOYCE, continued with the DHO hearing, & found A/C, guilty of the alleged prohibited acts, & denied, & violated A/C, his due process rights, inter alia, by denying him his specified witness, over-looking the improper federal register number in A/C's, first IRADH form during the DHO hearing on June 1,2017, & not noticing the wrongful mentioned prohibited code ("107") during the second UDC, hearing, & at the second DHO hearing before BOYCE. SEE, Pg. 9, at NOTICE,

herein.

33-- On June 19, 2017, A/C, filed a administrative remedy against counselor J. GONZALEZ. On July 17, 2017 ("29 DAYS LATER"), said administrative remedy was answered by Defendant-counselor, J. DIXON. SEE, Ex: C-14 - C-16, specifically Ex: C-16, herewith.

34-- Plaintiff, A/C, contends that "after" he was found guilty by the DHO officer (BOYCE) on June 22, 2017, somebody tryed to correct "the incorrect" federal register number (#09758-087) in the IRADH form(s), & in several other documents related to the May 18, 2017, incident report; planted contraband against Plaintiff, A/C, by a minimum of one prison official at FTD. SEE, Ex: C-5 - C-8, herewith.

35-- On June 27, 2017, A/C's ("PROPERTY"), nine boxes, & one laundry bag containing his legal material, reading material, & several law books "was removed" from the SHU, by S.I.S correction officer's at FTD, pursuant to the SHU property officer J. WARD. The Plaintiff, asserts, & contends that "no search warrant, and/or seizure warrant(s)" was provided to him by Defendant-Warden, D. ORTIZ, the FBI, and/or otherwise for the confiscation, search, & seizure of A/C's, property "in violation" of his 4th Amendment, pursuant to the U.S. Constitution, inter alia.

NOTICE: When A/C, received his property-legal material on Aug. 9, 2017, for the purpose of packing-out his property for movement to another federal institution he Notice that he was missing approximately a box of legal material, reading material, & a minimum of one book, of which Plaintiff, A/C, is requesting that said illegally seized property be returned back to him immediately by Defendant-Warden, D. ORTIZ; as this re-

quest should be an Order made by this Court.

36-- On July 20, 2017, Defendant, K. SMITH, submitted a 409 form to Grand Prairie, Texas, in which said form "contained" false statements-information, & double jeopardy issues therein, of which her actions were made knowingly, intentionally, & willingly; with the authorization of co-defendant, D. ORTIZ, & JANE, & JOHN DOE(S). SEE, Ex: C-17 - C-19, herewith.

37-- On Thursday July 13, 2017, A/C, was given a copy of his DHO report, & on Thursday July 20, 2017, the NERO, received A/C's, DHO Appeal, regarding the DHO's June 22, 2017, decision. SEE, Ex: C-20 - C-22, herewith.

38-- On Friday July 21, 2017, A/C's, DHO Appeal "was rejected" by the NERO. On Wednesday July 26, 2017, A/C, received the NERO's, rejection Notice, of which A/C, requested the SHU correction officer in charge (A. DOWNS, "WITNESS") to sign, & date the received rejection Notice the day that it was given to Plaintiff, A/C, at FTD. SEE, Ex: C-23, herewith.

NOTICE: Plaintiff, A/C, contends that his ten days "started from" Wednesday July 26, 2017, when he received his rejection Notice from C/O A. DOWNS.

39-- On Sunday July 30, 2017, for Monday July 31, 2017, A/C, purchased a book of stamp's from commissary for the purpose of re-mailing his rejected DHO Appeal back to the NERO, with it's made corrections therein within the given ten days that was given to A/C, in the rejection Notice by the NERO. On the night of Aug. 1, 2017, Plaintiff, A/C, "re-mailed" his DHO Appeal decision back to the NERO, "for a second time",

of which the SHU, correctional officer who received A/C's, out-going mail "was recorded by video tape(s)" near cell 318, on the night of Aug. 1, 2017, inbetween the hours of 10:00 to 11:55 p.m., of taking said mail; as said recorded video tape(s) was a part of the discovery request in Civil Action #3:17-CV-2171(JMM). SEE, Ex: C-24, herewith.

NOTICE: Many federal prison officials nationwide like to abuse, manipulate, & are knowingly violating countless inmates rights to Appeal a DHO decision, or constantly claiming that a inmate's administrative remedy is untimely, or it's not a sensitive BP-10, issue, & etc., in violation of the inmates due process rights, inter alia.

Moreover, there is "a Court Order" from the Trenton, or Camden U.S. District Court in New Jersey, to prison officials at FTD, stating that prison officials "shall" provide inmates at FTD, with any administrative remedy request(s) even though prison officials at FTD, as of the day (AUG. 11,2017) that A/C, was moved to another institution "were knowingly" ignoring that Court's Order.

40-- Pursuant to the NERO, A/C's, June 22,2017, DHO Appeal (#29893-15/#909669-R2) "was rejected a second time", of which Plaintiff, A/C, asserts, & attest "that he never seen" a copy of that second rejection Notice. On Tuesday Oct. 24,2017, A/C, certified mail a letter to the NERO, requesting to know the status of his June 22,2017, DHO Appeal. SEE, Ex: C-25, & C-26, herewith.

41-- On, or about Nov. 20,2017, A/C, certified mail a Motion, & Affidavit.., pursuant to 28 U.S.C. § 2241, before this Court (DOCKET ENTRY #3:17-CV-2171(JMM)). On Jan. 4,2018, "this Court Order" the Respon-

dents, & the U.S. Attorney to respond to the Petitioner's, 28 § 2241, petition "within" twenty-one days from the date of said Order, "& answer to the petition with supporting materials".

42-- On Jan. 25, 2018, COR, on behalf of the Respondents, in that matter (#3:17-CV-2171(JMM)) filed a Motion for dismissal, because Petitioner, A/C, failed to exhaust his administrative remedies; as oppose to satisfying this Court's Order of Jan. 4, 2018.

43-- On March 13, 2018, A/C, mailed out a Motion, & Affidavit.., requesting for Judgement by Default; or inalternative, a discovery deadline against COR, by the Court, then the requested schedule date for A/C's, demanded trial by jury...

44-- On April 4, 2018, A/C, mailed "an Affidavit" in support of his filed habeas corpus 28 U.S.C. § 2241, before this Court; citing Paladino v. Newsome, 2018 BL 90342, 3rd Cir. #15-2058 (3/16/2018). SEE, the docket entry sheet (#3:17-CV-2171(JMM)) for the results of that matter.

**REASONS, & ARGUMENTS SHOWING GENUINE ISSUES OF MATERIAL FACTS
WITH SUPPORTING EVIDENCE FOR THE DEMANDED TRIAL BY JURY
AGAINST ALL THE NAMED DEFENDANTS IN THIS MATTER**

45-- Plaintiff, A/C, in this Bivens, & Affidavit.., "is saying" that the named Defendants, & other unknown individuals all acted under color of federal law, inter alia, by knowingly, intentionally, & willingly depriving A/C, of his Civil, & Constitutional Rights; along with violating the laws of both the Sovereign STATE OF NEW JERSEY (WHERE SOME OF THE DEFENDANTS, COMMITTED THEIR UNLAWFUL ACTIVITIES, & VIOLATIONS AGAINST PLAINTIFF, A/C), & that of the UNITED STATES OF AMERICA. See, Calhoun v.

Detella, 319 F.3d 936, 941 (7th Cir. 2003); & Paladino v. Newsome, *supra*.

46-- Plaintiff, A/C, asserts, & contends that the Defendants, herein among other unknown federal government agency(s) "are guilty of dispicable acts" of official misconduct, malicious prosecutions, misuse of powers, planting contraband on A/C, by way of an incident report, attempts to conceal, & cover-up prison officials unlawful activities, & due process violations, the illegally confiscated, search, & seized property belonging to A/C, & the falsifying of statements, & information within government documents "that were created" by prison officials at FTD (DOCUMENTS THAT ARE BEING USED AS EXHIBITS HEREWITH), *inter alia*, of which said complaints, & documents "were ignored" by higher level employees at the FBOP, Central Office, & at the NERO. See, Johnson v. Knorr, 477 F.3d 75, 83 (3rd Cir. 2007).

47-- The Defendants, unlawful activities, & Constitutional violations, *inter alia*, operated in their individual capacity, & under color of federal law, *inter alia*, of which cause Plaintiff, A/C, mental anguish, humiliation, stress, loss of 40 days good time ("CREATING A FALSE IMPRISONMENT FOR THOSE 40 LOSS GOOD TIME DAYS"), the increase of his security prison level, costly filings (& PERHAPS APPEALS), copies, stamps, research, typing-typing ribbons, & etc.

48-- Plaintiff, A/C, asserts, & contends that the Defendants, actions were acts, & causes that constituted official, & wanton misconduct, gross negligence, actual malice, oppressive, compensatory, punitive, monetary, irreparable, discretionary, & treble damages, among other damages, & etc., of which the Plaintiff's, evidence, & his witness testimonies

will be presented at his demanded trial by jury before this Court, regarding all of the issues herein, & other related issues in this matter. See, Edwards v. Balisok, 520 U.S. 641, 645 (S.Ct. 1997); Borges Colon v. Roman-Abreu, 438 F.3d 1, 21 (1st Cir. 2006); Harden v. Pataki, 320 F.3d 1289, 1300, fn. 14 (11th Cir. 2003); Smith v. Wade, 461 U.S. 30, 51 (S.Ct. 1983); Fowler-Nash v. Democratic Caucus of Pa. House of Rep., 469 F.3d 328, 340 (3rd Cir. 2006).

49-- Plaintiff, A/C, contends that the exhaustion of administrative remedies is generally preferred, however, it is not a jurisdictional requirement for the purpose of filing a Bivens Cause of Action-Affidavit; as Congress "did not" include a requirement of exhaustion of any administrative remedies in the statute(s) upon which this Court's jurisdiction is based. The absence of such a requirement levels this Court with the authority to reach the merits as those in this matter now before this Court. See, U.S. v. Wood, 888 F.2d 653, 654 (10th Cir. 1989); McCarty v. Madigan, 503 U.S. 140, 144 (S.Ct. 1992); & Brown v. Rison, 895 F.2d 533, 535 (9th Cir. 1990).

50-- A/C, asserts that Congress has given no direction in the AEDPA, of 1996, that a Plaintiff, in a Bivens Cause of Action for money damages, inter alia, is statutorily required to exhaust any administrative remedies "before filing" a Bivens Cause of Action, & Affidavit.., for relief. The presence of the requirement in the PLRA, the AEDPA, & it's absence in a Bivens, means that Congress intended the distinction, & deliberately chose not to require exhaustion by any "injured party, and/or otherwise" even though A/C, did in good faith, & for good cause tryed to

exhaust his administrative remedies "twice", but was knowingly, & intentionally denied that Right by prison official's at FTD, & the NERO. See, Rodriguez v. United States, 480 U.S. 522, 525 (S.Ct. 1987); Brookins v. Vogel, 2006 WL #3437482, at *3 (E.D. Cal. 2006); Paladino v. Newsome, supra; & 2A N. Singer, Sutherland Statutory Construction §§ 57.06, at 654 (Sands 4th Ed. 1984).

51-- The Plaintiff, has presented clear, & convincing evidence by the use of the Defendants, "own created government documents", including testimonies from witnesses as to the issues in this matter before this Court showing, & etc., that Defendant, D. ORTIZ, & numerous other employees of the FBOP, including a minimum of one other federal government agency knowingly, intentionally, & willingly "conspire" directly, & indirectly to commit actual malice, inter alia, against A/C.

e.g., on June 22, 2017, A/C, was convicted of serious prison disciplinary charges at a DHO hearing before Defendant, A. BOYCE, at FTD, of which said May 18, 2017, incident report, & planted contraband "was orchestrated" by a minimum of one prison official at FTD (OF WHICH IS ONE, OR SEVERAL OF THE JANE, AND/OR JOHN DOE(S), IN THIS MATTER), "prior to" A/C, being moved from the WSC, to the ESC, on March 15, 2017, for no apparent reason(s), of which said movement decision was finalized by Defendant-Warden, D. ORTIZ, who authorized said movement. SEE, Pg. 5, at ¶ 19 - ¶ 22, herein; & Bell Atl. Corp. v. Twombly, 550 U.S. 544, 127 S.Ct. 1955 (2007).

52-- When prison officials at FTD, & Defendant, D. ORTIZ, subject Plaintiff, A/C, to serious punishment like punitive segregation, numerous strip searches, bend overs, & spreading of his buttocks, exposing his genital's, & his anal area, of which also lead to all of the above issues

during his movements from FTD, prison to MDC, Brooklyn, New York, then to U.S.P Canaan (LOCK-DOWN 16 HOURS A DAY ON WEEKDAYS, & LOCK-DOWN ON WEEKENDS, & HOLIDAYS 24 HOURS A DAY; AS A/C, WAS AT U.S.P CANAAN FOR 29 DAYS), & finally F.C.I Allenwood Medium; as said movement caused interstate commerce "due to the fabricated evidence" that was planted on Plaintiff, A/C, by prison officials at FTD, against A/C.

NOTICE: The movement from the WSC, to the ESC, on March 15, 2017, "created an obvious set-up" by prison officials at FTD, by some of the named Defendants, who aided, & abetted one another in order to accomplish said unlawful, & prohibited acts, inter alia, at FTD.

53-- Prison officials at FTD, should have safe-guarded A/C's, due process rights, inter alia; as oppose to said prison officials at FTD, personal attacks against Plaintiff, A/C, because of his relentless filings of his administrative remedies at that prison, & his quest for his freedom due to the "forged signatures" in the issued arrest warrants, & criminal complaints in his federal criminal case (#99-6144-01(RJH)), & in several other un-related federal criminal cases, inter alia, of which said forgery, misconduct, & etc., occurred at the NJDC, & has lead to this situation now before this Court. See, Wolff v. McDonnell, 418 U.S. 539, 566, 94 S.Ct. 2963 (1974); Gilbert v. Frazier, 931 F.2d 1581, 1582 (7th Cir. 1991); Copper v. Pate, supra; & Paladino v. Newsome, supra.

54-- Pursuant to the policy of the FBOP, & case law prisoners have a right to call witnesses when it is not unduly hazardous to the institution's safety, or correctional goals, of which none of these reasons

apply to this matter; nor was any of those reasons mentioned by Defendant, A. BOYCE, during said DHO hearing on June 22, 2017. SEE, Pg. 9, at ¶ 32, herein; Serram v. Francis, 345 F.3d 1071, 1079-80 (9th Cir. 2003); & Wolff v. McDonnell, supra.

55-- Plaintiff, A/C, contends that prison officials at FTD, actions only amounted to the kind of blanket policy of denying their rights to a witness, or type of witnesses, *inter alia*, in which Courts have repeatedly struck down as violations of the prisoner's due process; as Courts have also repeatedly held that the refusal to call a witness(es) "with personal knowledge" of the incident in question denies due process. See, Forbes v. Trigg, 976 F.2d 308, 316-17 (7th Cir. 1992); McFarland v. Cas-sady, 779 F.2d 1426, 1428 (9th Cir. 1986); McCann v. Coughlin, 698 F.2d 112, 122-23 (2nd Cir. 1983); & Fox v. Coughlin, 893 F.2d 475, 478 (2nd Cir. 1990).

56-- Defendant, D. ORTIZ, the FBOP, & the NERO, including a minimum of one other federal government agency-office "were made aware of" Plaintiff, A/C's, situation, but decided to ignore his fact-findings when they "intentionally failed to investigate" A/C's, requested request for an investigation, of which said requests were made prior to May 18, 2017, & afterwards; as there acts not to investigate, and/or at minimum question said victim "is unacceptable", & was physical torture to the Plaintiff, by all of the Defendants.

57-- Plaintiff, A/C, contends that the Defendants, known herein as Warden, D. ORTIZ, FBOP, Director MARK INCH, & NERO, Director M.D. CARVA-JAL, actions constituted gross negligence, & deliberate indifference, in-

ter alia, as supervisors when they themselves were knowingly violating their own policies, & customs, inter alia, by not properly training, supervising, managing, & investigating the complaints that have been filed by the Plaintiff, his sister, & other inmates against their subordinates, their failure to investigate countless Civil, & Constitutional violations, & prohibited acts "that were" implemented by their subordinates, & their failure to be concerned of four thousand plus inmates health, & safety risks by these Defendants, & prison officials at FTD; therefore, D. ORTIZ, MARK INCH, & M.D. CARVAJAL, among other federal employees as a matter of law can be held liable for creating, & allowing the above violations, the prohibited acts, & etc., to continue to go on, of which have been occurring at FTD, for numerous years, especially the one that started the Plaintiff's, situation on March 15, 2017, once he was moved from the WSC, to the ESC, for no reason(s).

58-- The Defendants, exercised gross negligence, & deliberate indifference, inter alia, to the Plaintiff's, health, & safety by failing "to protect him" from the fabricated incident report(s), threats from staff by "placing him back on the ESC, on March 15, 2017", & the inadequate space, & ventilation in each cell at FTD, of which all of the Defendants, were well aware of the risks, sicknesses, & etc., that existed at this specified prison due to each inmates housing unit-building exceeding it's building occupancy capacity by at least 96 inmates per building.

59-- Defendants, D. ORTIZ, MARK INCH, & M. D. CARVAJAL, all knew, or should have known that FTD, former Warden J. HOLLINGSWORTH, "falsified information" in the EMS 36 forms "to the public"; to wit, that P.S. 1060.

11, held, at pg. 7, ¶ 8(a) - (f), in part: All permanent housing area... "shall" be reported on the rated capacity computation form EMS 36 (EMS 36 FORM(S)); as the Regional Director "shall" sign, & forward the EMS 36 form to the assistant Director...

NOTICE: The Defendants, in ¶ 57, herein knowingly continued "to allow" the violations of P.S. 1060.11, & that of the American Correctional Association (ACA) at FTD, causing serious harm to the health, & safety of Plaintiff, A/C, because the Defendants, & it's corporation (FBOP) "are only interested" in the revenue stream from the overcrowding of the inmates sleeping quarters at FTD, by cramming together 12 inmates per cell, while the 2nd Circuit Court of Appeals does not hold that a 12 man cell can ever be Constitutional, of which said 12 man cells poses additional, & greater risks to the inmates health, & safety. Keeping mindful that the inmates sleeping quarters at FTD, is also the inmates dinnning area, in which "each cell" has only one table that can only seat four inmates at a time. Due to the overcrowding of each inmates sleeping housing quarters (12 INMATES PER CELL), said inmates "ARE NOT" being given the mandated-required 60 sq. ft., of unencumbered space per inmate, "& ARE NOT" being provided the sufficient seating, & eating surfaces in each 12 man cell. In Rhode v. Chapman, 69 L.Ed 2d 59 (S.Ct. 1981), the Court held, I have not the slightest doubt that 63 sq. ft., "of cell spece" is not enough for two men.

Moreover, the double bunks alone (3 BUNKS ON EACH SIDE) take a minimum of 20 sq. ft., each, & with 12 inmates in one cell the noise level is excruiating, because some of the inmates have different sleeping

hours, beside's other inmates visiting inmates throughout the day, & night, inter alia, in said cells, of which heighten tension(s), arguments, & at time's fights occur, inter alia, placing the Plaintiff, in constant risk of violence, & serious harm from other inmates within said housing unit; as some of the inmates at FTD, in the 12 man cells are agitated at the smallest little thing, especially in the summer "due to the unescapeable heat" in said unhuman 12 man cells that "do not have" any air conditioners. These facts are apart from the inmates at FTD, "catching different types of infections". e.g., due to the 12 inmates per cell, & the violation(s) of each buildings occupancy maximum capacity, inter alia, numerous illnesses "have occurred" as evident by a number of "reoccurring outbreaks" of rashes, parasitic scabies(s), and/or bacterial staph infection(s), chicken pox, colds, & the flu, inter alia; exposing prison officials, & their family to the same infections... SEE, the bottom of pg. 7, at NOTICE, herein. See, Wright v. Smith, 21 F.3d 496 (2nd Cir. 1994).

60-- On Oct. 18, 2016, unit 5811, was lockdown due to the outbreak of chicken pox; as the overcrowded inmates sleeping quarters "air quality" is also being violated, especially during the winter months, because the air ventilation "are completely off"; giving those 12 inmates per cell, & those in the 2 man cell zero (0) cubic feet of outside air; as said air ventilation "is useless" in the summer being that they blow out warm air, making it difficult for some inmates to breathe "in violation" of the ACA; § 4-4151 (REF. § 3-4144), & § 4-4152 (REF. § 3-4145).

61-- A/C, contends that 18 U.S.C. § 4042, requires that inmates be provided suitable quarters, of which all of the Defendants, are in viola-

tion of that mandated requirement; to wit, that the cell measurements at FTD, are 517 sq. ft., equivalent to 8 inmates per cell (517 SQ. FT. ÷ 60 SQ. FT. = 8.6). The 37 sq. ft., left over (8 INMATES X 60 SQ. FT = 480 SQ. FT.; 517 SQ. FT. - 480 SQ. FT. = 37) "is insufficient" for nine inmates, yet the cells are 50% overcrowded with 12 inmates, as these facts are not including the violation(s) of each building's occupancy maximum capacity that is also being violated, & ignored by all of the Defendants, & other employees of the FBOP, who have failed to report these violations to the proper authority, as mandated by P.S. 3420.11, making them all liable in their individual capacity.

62-- The Plaintiff, did suspect that there would be knowing manipulation, & the falsification of information "to the public" in the EMS 36 forms "that were signed by" FTD, former Warden, J. HOLLINGSWORTH. As evident by the EMS 36 forms of Jan. 2015, & in combining units 5802, & 5803, it is showing 48 (12 MAN CELLS) cells measuring 517 sq. ft., each with a total of 24,816 sq. ft., "& a false" rated capacity of 432 inmates per cell. The use of the additional square footage is manipulative, because each 517 sq. ft., cell can only hold a rated capacity of 8 inmates per cell, & thus, the total rated capacity is actually 48 inmates less at 384 (48 CELLS X 8 INMATES = 384). SEE, Ex: C-27 - C-32, herewith.

63-- The claimed rated capacity of 432 inmates "is false" even when using the total square footage of 24,816 divided by 60 equals 413.6. The Plaintiff, in this matter point's out to this Court "due to his personal knowledge at FTD", that the Defendants, are actually housing 12 inmates per cell, totaling 576 inmates within 48 cells (48 CELLS X 12 INMATES PER

CELL = 576), "of which is 192 inmates over the actual rated capacity (576 - 384 = 192)". The housing units on the WSC, known as 5802, 03, 11, & 12, "are each" at minimum 96 inmates over it's occupancy-housing-building-maximum-capacity, & 144 inmates over "the falsely" stated rated capacity using the total square footage in the EMS 36 forms of 24,816 (576 - 432 = 144).

NOTICE: These knowing violations are only, regarding the 12 man cells, "& are not" including the violations, & prohibited acts concerning some of the 2 man cells, in which prison officials at FTD, are unconstitutionally housing 3 to 4 inmates per cell in violation of both P.S. 10-60.11, & that of the ACA; creating a fire hazard at said prison. SEE, Ex: C-27 - C-32, herewith; & title 5 U.S.C. §§ 701, & 702.

64-- In April of 2014, "a death occurred at FTD", in the Plaintiff's, unit (5812, ON THE WSC) after a fight broke-out between two inmates (BRIAN LATULIPE, #14957-052) "over a seating-space argument" (CAUSE BY THE OVERCROWDING OF INMATES IN EACH UNIT). See, 18 U.S.C. § 4042(a)(2); & U.S. v. Hankerson, 496 F.3d at 309 (3rd Cir. 2007).

NOTICE: One of the greatest issues suffered by the Plaintiff, at FTD, is the overcrowding, & prison officials giving inmates incident reports for contraband, of which in many cases "did not" belong to said inmate's as was done to the Plaintiff.

e.g., On Aug. 20,2017, inmate DOUGLAS CROSS, #50101-056 (D/C), was given a incident report for possession of a hazardous tool, of which D/C, was found guilty on Sept. 26,2017, during his DHO hearing before Defendant, A. BOYCE. On Feb. 1,2018, "the NERO, expunged" D/C's, disciplinary

record for his allegedly committed prohibited act at FTD, "in his 12 man cell", of which in that situation D/C, "was also denied his witnesses". SEE, Ex: C-33 - C-36, herewith.

65-- The irreparable serious harm, & injuries surrounds the deprivations of the Plaintiff's, 1st, 4th, 5th, 6th, 8th, 9th, 10th, 13th, & 14th Amendment Rights, inter alia, when the cumulative impact of the conditions of his confinement "is threaten" by the physical, mental, emotional, & well being of his person, inter alia, of which this Court should conclude that the falsifying of any incident report(s) against any inmate(s) is wrong, prohibited, an act of official misconduct, & abuse of process, inter alia; as the named Defendants, herein, & many other known, & unknown federal government officials were aiding, & abetting one another in violation of numerous inmates Civil, & Constitutional Rights.

66-- The Plaintiff, contends that a filing of a habeas corpus 28 § 2241, "on, or about Dec. 15, 2016", at the Camden, New Jersey, U.S. District Court (UNDER DOCKET #16-9553(JBS)) "that he (A/C) filed for another inmate at FTD", apart from his personal filings of his administrative remedies, inter alia, at FTD, "were at all times" protected by the U.S. Constitution, inter alia, of which this was one of several issues that lead to the "set-up, & write-up" of the May 18, 2017, incident report; a retaliatory act that caused damages, & the malicious injuries, inter alia, to the Plaintiff. SEE, Pgs. 5, & 6, at ¶ 19 - ¶ 25, herein; Haines v. Kerner, supra; & Estello v. Gamble, supra.

67-- Apart from all of the above facts herein, the Plaintiff, & every inmate at FTD, may be potentially suffering from a permanently in-

testinal disease, inter alia, of which is perhaps uncureable at this time due to the amount of years that the Plaintiff (INCLUDING THOUSANDS OF OTHER INMATES AT FTD), "was exposed, & has been unknowingly drinking said comtaminated fountain water" containing high levels of lead, & coliform bacteria, & only GOD, & those testing said inmates drinking water knows what else said contaminated inmates drinking water has in it; as these facts also constitute gross negligence, & deliberate indifference, inter alia, against all of the Defendants, in this matter due to there attempts to conceal, & cover-up these facts... SEE, Ex: C-37, herewith.

NOTICE: Keeping mindful that the same "contaminated inmates drinking water" is also being used by prison officials at FTD, to cook the Plaintiff's, food-meals; therefore, contaminating all of the inmates food-meals.

68-- The Plaintiff, in this "Bivens Cause of Action, & Affidavit..", attest, asserts, & contends that all of the issues argued herein are all related to the move from the WSC, on March 15, 2017, to the May 18, 2017, incident report that was given to the Plaintiff, on the ESC, in which lead to this matter now before this Court. SEE, Pg. 23, at NOTICE, herein.

COUNT ONE

69-- At all relevant times herein, & from March 15, 2017, in Burlington County, in the District of New Jersey, & elsewhere, Defendants, D. ORTIZ, MARK INCH, & M. D. CARVAJAL, & other known, & unknown individuals, including a minimum of one federal government agency, and/or office did knowingly, intentionally, & willingly act under color of federal law, & in their individual personal capacity to commit unlawful, & prohibited

acts, recklessness, & actual malice, inter alia, against Plaintiff, A/C. Moreover, these Defendants, knowingly, & etc., failed to do the following:

A-- These Defendants, failed to adequately advise, train, supervise, & manage prison officials at FTD;

B-- These Defendants, failed to investigate the Plaintiff's, verble, & filed complaint(s) against prison officials at FTD;

C-- These Defendants, failed to be concerned about the Plaintiff's (& OTHER INMATES), health, & safety risks at FTD;

D-- These Defendants, failed to abide by the laws of the Sovereign STATE OF NEW JERSEY, & that of the UNITED STATES;

E-- These Defendants, deprived Plaintiff, A/C, of his Civil, & Constitutional Rights during his time at FTD; &

F-- These Defendants failed "to protect" Plaintiff, A/C, from serious wanton, & willful misconduct, inter alia, that was implemented by prison officials at FTD, inter alia.

70-- This Bivens Cause of Action, & Affidavit.., "is containing" prima facie evidence, & presumptions ("INCLUDING WITNESSES") showing a pattern of events that lead to prison officials at FTD, "planting, or knowing that contraband" was in the Plaintiff's, assigned cell "prior to" having him moved from the WSC, to the ESC, on March 15, 2017, of which said move was authorized by Defendant, D. ORTIZ, & other unknown prison officials at FTD.

71-- Plaintiff, A/C, realleges, & incorporates by reference to his paragraphs 1 through 68, as set forth herein; to wit, that Defendants, D. ORTIZ, MARK INCH, & M.D. CARVAJAL, "are each" being sued for a total of five (5) million UNITED STATES dollars under color of federal law, & in their individual personal capacity.

COUNT TWO

72-- At all relevant times herein, & from March 15, 2017, until present in Burlington County, in the District of New Jersey, & elsewhere, Defendants, D. ORTIZ, . BRINSON, J. DIXON, K. SMITH, JANE DOE, 1, 2, & 3, JOHN DOE, 1, 2, & 3, A. BOYCE, MARK INCH, M.D. CARVAJAL, & other known, & unknown individuals, including a minimum of one federal government agency, and/or office did knowingly, intentionally, & willingly act under color of federal law, & in their individual personal capacity "by aiding, & abetting one another" to commit affirmative, gross, official, serious wanton, & willful misconduct, & actual malice, inter alia, against Plaintiff, A/C. Moreover, these Defendants, knowingly, & etc., caused directly, & indirectly the following:

A-- Caused Plaintiff, A/C, his deprivation of his Civil, & Constitutional Rights during his time at FTD;

B-- These Defendants, violated the laws of the Sovereign STATE OF NEW JERSEY, & that of the UNITED STATES; &

C-- These Defendants, violated the policies that have been structure for employees of the corporate FBOP.

73-- Plaintiff, A/C, realleges, & incorporates by reference to his paragraphs 19 through 58, at pgs. 5 - 19, as set forth herein; to wit,

that Defendants, D. ORTIZ, . BRINSON, J. DIXON, K. SMITH, JANE DOE, 1, 2, & 3, JOHN DOE, 1, 2, & 3, A. BOYCE, MARK INCH, & M.D. CARVAJAL, "are each" being sued for a total of five (5) million UNITED STATES dollars under color of federal law, & in their individual capacity.

COUNT THREE

74-- At all relevant times herein, & from March 15, 2017, until present in Burlington County, in the District of New Jersey, & elsewhere, Defendants, D. ORTIZ, . BRINSON, J. DIXON, K. SMITH, JANE DOE, 1, 2, & 3, JOHN DOE, 1, 2, & 3, A. BOYCE, MARK INCH, M. D. CARVAJAL, & other known, & unknown individuals, including a minimum of one federal government agency, and/or office did knowingly, intentionally, & willingly act under color of federal law, & in their individual personal capacity to commit health, & safety risks, inter alia, against Plaintiff, A/C. Moreover, these Defendants, knew, or should have known the following:

A-- These Defendants, knew, or should have known that Plaintiff, A/C's, health, & safety was at risk, because of the overcrowding of a minimum of 96 inmates in nearly all of the inmates housing units, creating a fire hazard, & violations of the building occupancy maximum capacity;

B-- These Defendants, knew, or should have known that the placement of Plaintiff, A/C, in a 12 man cell (SLEEPING QUARTER) on the ESC, at FTD, created a health, & safety risk, & violated his 60 sq. ft., per inmate(s);

C-- These Defendants, knew, or should have known that Plaintiff, A/C (INCLUDING ALL OF THE OTHER INMATES AT FTD), was being provided con-

taminated fountain water, in which contained high levels of lead, & coliform bacteria;

D-- These Defendants, knew, or should have known that Plaintiff, A/C (INCLUDING ALL OF THE OTHER INMATES AT FTD), was being feed contaminated food, due to prison officials using said contaminated water in preparing A/C's, food; &

E-- These Defendants, knew, or should have known that Plaintiff, A/C ("& THE PUBLIC"), was given several EMS 36 forms, "in which contained false statements, inter alia".

75-- Plaintiff, A/C, realleges, & incorporates by reference to his paragraphs 59 through 68, at pgs. 19 - 25, herein; to wit, that all of the Defendants, "are each" being sued for a total of five (5) million UNITED STATES dollars under color of law, & in their individual personal capacity.

COUNT FOUR

76-- At all relevant times herein, & from March 15, 2017, in Burlington County, in the District of New Jersey, Defendants, D. ORTIZ, . BRINSON, J. DIXON, JANE DOE, 1, 2, & 3, & JOHN DOE, 1, 2, & 3, including a minimum of one federal government agency, and/or office did knowingly, intentionally, & willingly act under color of federal law, & in their individual personal capacity to commit affirmative, gross, official, serious wanton, & willful misconduct, & actual malice, inter alia, against Plaintiff, A/C. Moreover, these Defendants, planted, or knew the following:

A-- These Defendants, planted, or knew "prior to" moving, & assign-

ing Plaintiff, A/C, to the ESC, on March 15, 2017, that contraband was in his assigned cell; &

B-- These Defendants, knew that the request for an investigation through S.I.A, or the FBOP internal affairs unit, and/or the inspector general's office "would have" exposed misconduct, inter alia, against a minimum of one prison official at FTD, showing who orchestrated the planting of contraband against Plaintiff, A/C.

77-- Plaintiff, A/C, realleges, & incorporates by reference to his paragraphs 19 through 34, at pgs. 5 - 10, as set forth herein; to wit, that Defendants, D. ORTIZ, . BRINSON, J. DIXON, JANE DOE, 1, 2, & 3, JOHN DOE, 1, 2, & 3, "are each" being sued for a total of five (5) million UNITED STATES dollars under color of federal law, & in their individual personal capacity.

COUNT FIVE

78-- At all relevant times herein, & from March 15, 2017, in Burlington County, in the District of New Jersey, Defendants, D. ORTIZ, . BRINSON, J. DIXON, A. BOYCE, & other known, & unknown individuals did knowingly, intentionally, & willingly act under color of federal law, & in their personal capacity to commit unlawful, & prohibited acts, inter alia, against Plaintiff, A/C. Moreover, these Defendants, knew, or should have known the following:

A-- These Defendants, knew, or should have known that Plaintiff, A/C, had a right to have his witness present during his DHO hearing, of which said witness was purposely denied; &

B-- These Defendants, communicated with one another to influence

the outcome in a negative way of the fabricated incident report against Plaintiff, A/C, by said Defendants, of which the DHO officer (A. BOYCE) requested that an Amended incident report be re-written in order for him to proceed with said "planted evidence" mentioned in the incident report.

79-- Plaintiff, A/C, realleges, & incorporates by reference to his paragraphs 22 through 30, at pgs. 5 - 8, as set forth herein; to wit, that Defendants, D. ORTIZ, . BRINSON, J. DIXON, & A. BOYCE, "are each" being sued for a total of five (5) million UNITED STATES dollars under color of federal law, & in their individual personal capacity.

COUNT SIX

80-- At all relevant times herein, & on June 27, 2017, in Burlington County, in the District of New Jersey, Defendants, D. ORTIZ, . BRINSON, J. DIXON, MARK INCH, M.D. CARVAJAL, & other known, & unknown individuals, including a minimum of one federal government agency, and/or office did knowingly, intentionally, & willingly act under color of federal law, & in their individual personal capacity to commit unlawful, & prohibited acts, inter alia, against Plaintiff, A/C. Moreover, these Defendants, knew, or should have known the following:

A-- These Defendants, knew, or should have known that the confiscation, search, & seizure of Plaintiff, A/C's, box of legal material, reading material, & a minimum of one book was unlawfully seized "without" a search warrant, "in violation" of A/C's, 4th Amendment Rights, pursuant to the U.S. Constitution, "& in violation" of the Constitution of the STATE OF NEW JERSEY.

81-- Plaintiff, A/C, realleges, & incorporates by reference to his paragraph 35, at pg. 10, as set forth herein; to wit, that Defendants, D. ORTIZ, . BRINSON, J. DIXON, MARK INCH, & M.D. CARVAJAL, "are each" being sued for a total of five (5) million UNITED STATES dollars under color of federal law, & in their individual personal capacity.

COUNT SEVEN

82-- At all relevant times herein, & from July 20, 2017, in Burlington County, in the District of New Jersey, & elsewhere, Defendants, D. ORTIZ, . BRINSON, J. DIXON, K. SMITH, JANE DOE, 1, 2, & 3, JOHN DOE, 1, 2, & 3, MARK INCH, M. D. CARVAJAL, & other known, & unknown individuals, including a minimum of one federal government agency, and/or office did knowingly, intentionally, & willingly act under color of federal law, & in their individual personal capacity to commit affirmative, gross, official, serious wanton, & willful misconduct, actual malice, & false statements, inter alia, against Plaintiff, A/C. Moreover, these Defendants, knew, or should have known the following:

A-- These Defendants, knew that they had an obligation under P.S. 3420.11, "to report" Plaintiff, A/C's, complaint(s) to the proper authority(s) for an investigation;

B-- These Defendants, knew, or should have known that there was false statements made in the 409 form that was mailed, or e-mailed, or fax to the designation, & sentence computation center in Texas;

C-- These Defendants, knew, or should have known that there were double jeopardy issues mentioned in the 409 form that was mailed, or e-mailed, or fax to the designation, & sentence computation center in Texas,

"in violation" of Plaintiff, A/C's, 5th Amendment Rights; &

D-- The Defendants, knew, or should have known that the manipulation of Plaintiff, A/C's, male custody classification form went from four (4) to fifteen (15) points, placing him back in a medium security level facility for closer supervision, of which was an abuse of process, defamation, & causing safety risks, inter alia, to A/C.

83-- Plaintiff, A/C, realleges, & incorporates by reference to his paragraph 36, at pg. 11, as set forth herein; to wit, that Defendants, D. ORTIZ, . BRINSON, J. DIXON, K. SMITH, JANE DOE, 1, 2, & 3, JOHN DOE, 1, 2, & 3, MARK INCH, & M. D. CARVAJAL, "are each" being sued for a total of five (5) million UNITED STATES dollars under color of federal law, & in their individual personal capacity.

WHEREFORE, Plaintiff, A/C, has demanded for a trial by jury for damages, inter alia, to be treble, & prays for judgment against each Defendant, named in this Bivens, & Affidavit Cause of Action in the amount of five (5) million UNITED STATES dollars; apart from this Court's filing cost (& ANY, & ALL APPEAL(S) COST) typing ribbons, typing erasers, copies, & regular, & certified mail mailing, including interest from the dates of pain, suffering, damages, injuries, & etc., together with any other relief as this Court may deem just, & proper in favor of Plaintiff, A/C.

Respectfully Requested, &
Submitted By:

DATED: May 29, 2018

Alberto Concepcion
Pro Se Plaintiff,
ALBERTO CONCEPCION

SWORN TO BEFORE ME THIS _____
DAY OF MAY 2018.

C. Kirkendall, Examiner. Authorized by the
(Name) (Title)
Act of July 7, 1955, as amended, to administer oaths.
(1B USC 4004).

c.c. File; & Cert. Mail to the
above District Court #7008-
3230-0002-7202-8789.

JAN 17

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

INCIDENT REPORT
Part I - Incident Report

1. Institution: FCI Fort Dix		Incident Report Number:	
2. Inmate's Name: Concepcion, Alberto	3. Register Number: 22853-050	4. Date of Incident: 5-18-2017	5. Time: 5:22PM
6. Place of Incident: Unit 5752 Room 307	7. Assignment: East Yard AM		8. Unit: 5752 "F"
9. Incident: Possession, manufacturing, introduction of a weapon Possession, manufacturing, introduction of a cell phone		10. Prohibited Act Code (s): 104, 108	

11. Description of Incident (Date: 05-18-2017 Time: 5:22PM Staff became aware of incident):

On the above date and time I, Officer J. Harris was conducting a shakedown of Room 307 in Unit 5752. In the unsecured locker of 307-2L I located a wall locker safe on the bottom left corner of the locker. Next, I removed the magnetized metal plate to find the following contraband in pouches magnetized to the back of the locker. Inside the pouches I found 1 black Motorola cell phone, 1 BMW key fob cell phone, 1 3 inch Tac Force switch blade, 1 Sprint sims card, 5 cell phone batteries, 3 homemade cell phone batteries, 1 screw driver bit, and 4 USB cords. All contraband was confiscated and sent to the Lieutenant's Office. Operations Lieutenant notified.

12. Typed Name/Signature of Reporting Employee: J. Harris	13. Date And Time: 05-18-2017 8:40PM	
14. Incident Report Delivered to Above Inmate By (Type Name/Signature):	15. Date Incident Report Delivered: 5-18-17	16. Time Incident Report Delivered: 6:30pm

Part II - Committee Action

17. Comments of Inmate to Committee Regarding Above Incident:

18. A. It is the finding of the committee that you: <input type="checkbox"/> Committed the Prohibited Act as charged: <input type="checkbox"/> Did not Commit a Prohibited Act. <input type="checkbox"/> Committed Prohibited Act Code (s). _____	B. <input type="checkbox"/> The Committee is referring the Charge(s) to the DHO for further Hearing C. <input type="checkbox"/> The Committee advised the inmate of its finding and of the right to file an appeal within 20 calendar days.
--	--

19. Committee Decision is Based on Specific Evidence as Follows:

20. Committee action and/or recommendation if referred to DHO (Contingent upon DHO finding inmate committed prohibited act):

21. Date and Time of Action: _____ (The UDC Chairman=s signature certifies who sat on the UDC and that the completed report accurately reflects the UDC proceedings).

Chairman (Typed Name/Signature): _____

Member (Typed Name): _____

Member (Typed Name): _____

INSTRUCTIONS: All items outside of heavy rule are for staff use only. Begin entries with the number 1 and work up. Entries not completed will be voided by staff.

Distribute: Original-Central File Record; COPY-1-DHO; COPY-2-Inmate after UDC Action; COPY 3-Inmate within 24 hours of Part I Preparation

Ex: C-1

PART III - Investigation	22. Date and Time Investigation Began:
	5-15-17 6:51 pm

23. Inmate Advised of Right To Remain Silent: You are advised of your right to remain silent at all stages of the discipline process. Your silence may be used to draw an adverse inference against you at any stage of the discipline process. Your silence alone may not be used to support a finding that you have committed a prohibited act.

The Inmate Was Advised of the Above Right By: Act's Lt R. Torres

At (Date/time): May 19, 2017 6:51 PM

24. Inmate statement and attitude:

Inmate Concepcion #22853-050 was advised of his rights and stated he understood them.

Inmate Concepcion #22853-050 received a copy of this Incident report.

Inmate Concepcion #22853-050 was read the contents of this report and gave the following statement.

Inmate stated: "I just want to see the DHO."

Inmate Concepcion #22853-050 displayed a fair attitude during this investigation.

25. Other facts about the incident, statements of those persons present at scene, disposition of evidence, etc:

The items were found in your room and you are supposed to check your living area every day to make sure there is nothing put in your area that doesn't belong there.

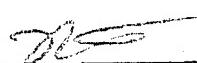
26. Investigators comments and conclusions:

Based upon this Incident report, section 11, Inmate Concepcion #22853-050, it is the conclusion of this investigator that you have been appropriately charged with violation code 104, 108: Inmate(s) are not allowed possess cell phones cell phone batteries, a switch blade, and homemade batteries for cell phones. By having these items you have broken policy.

27. Action taken:

This incident report will be forwarded to UDC for further disposition. Inmate Concepcion #22853-050 is quartered in the special housing unit.

Date and Time Investigation Completed: May 11, 2017 6:05 PM

Printed Name/Signature of Investigator: R. Torres / 

Title: Activities Lieutenant

Ex:C-2



FCI, Ft. Dix, New Jersey
PHOTO SHEET

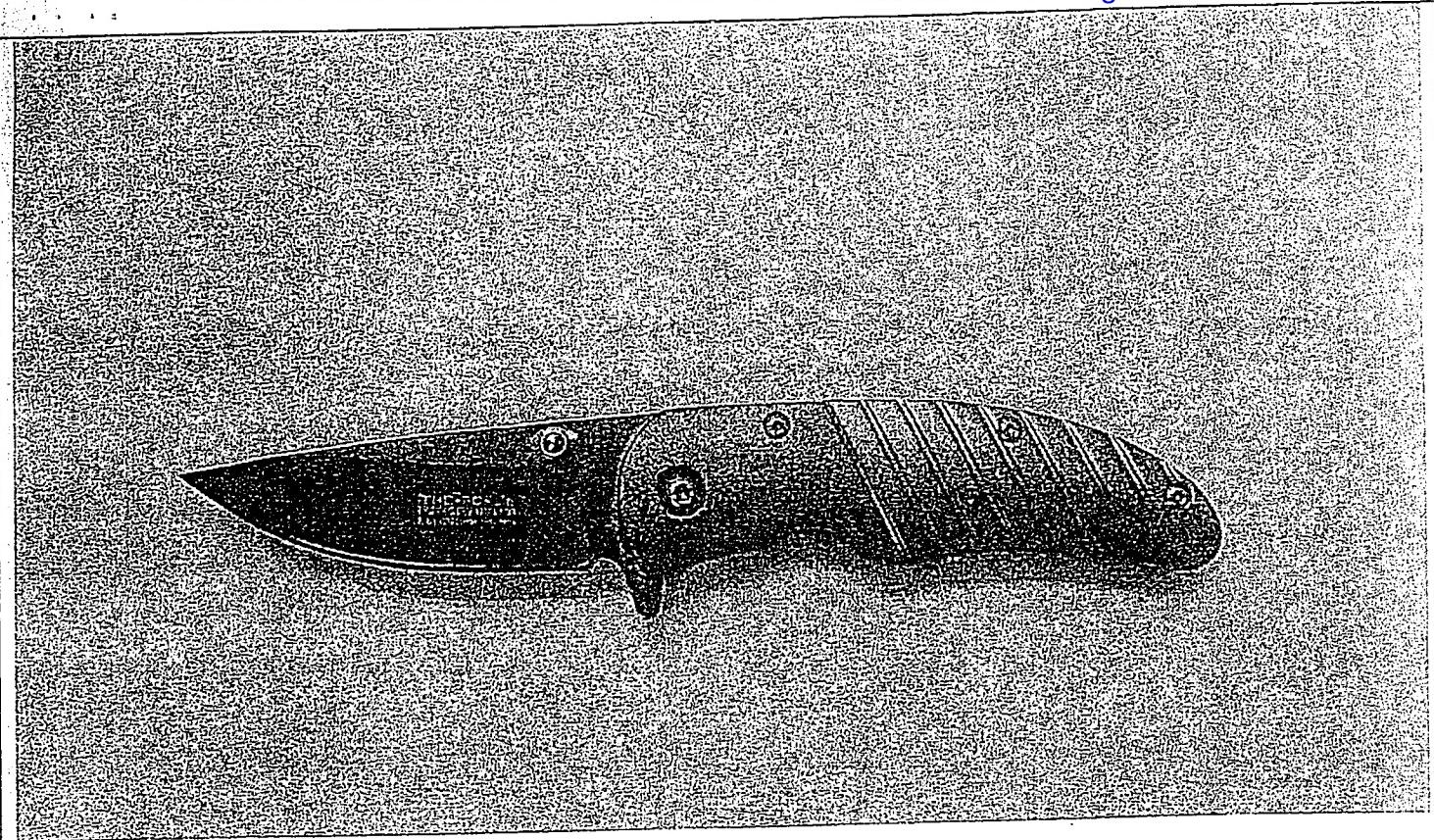
Date:	Time of incident:	Location of incident:
May 18, 2017	5:22PM	5752 Room 307
Inmate Name:		Inmate Number:
Resto, Benjamin (Concepcion, Alberto)		16278-054 22853-050 (suspects)

Photo Taken By: B. Lomonaco, Senior Officer Specialist

Description: The below contraband was recovered in room 307 2 man room by Officer J. Harris. This includes one (1) automatic switch blade knife. One (1) Motorola phone, One (1) BMW key FOB phone, One (1) sim card, and multiple battery packs.



Ex: C-3



Ex:C-4

MAY 94

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Institution:

As an inmate charged with a violation of Bureau of Prisons rules or regulations referred to the Discipline Hearing Officer (DHO) for disposition, you have the following rights:

1. The right to have a written copy of the charge(s) against you at least 24 hours prior to appearing before the Discipline Hearing Officer;
2. The right to have a full-time member of the staff who is reasonably available to represent you before the Discipline Hearing Officer;
3. The right to call witnesses (or present written statements of unavailable witnesses) and to present documentary evidence in your behalf, provided institutional safety would not be jeopardized;
4. The right to present a statement or to remain silent. Your silence may be used to draw an adverse inference against you. However, your silence alone may not be used to support a finding that you committed a prohibited act;
5. The right to be present throughout the discipline hearing except during a period of deliberation or when institutional safety would be jeopardized. If you elect not to appear before the DHO, you may still have witnesses and a staff representative appear on your behalf;
6. The right to be advised of the DHO's decision, the facts supporting that decision, except where institutional safety would be jeopardized, and the DHO's disposition in writing; and,
7. The right to appeal the decision of the DHO by means of the Administrative Remedy Procedure to the Regional Director within 20 calendar days of notice of the DHO's decision and disposition.

I hereby acknowledge that I have been advised of the above rights afforded me at a hearing before the Discipline Hearing Officer. I have further been advised that if I have previously received either a presumptive or effective parole date from the Parole Commission, a finding by the DHO that I committed the prohibited act(s) may result in a rescission or retardation by the Parole Commission of the presumptive or effective parole date.

Signed: Concepcion, Alberto Reg. No.: 09758-087 Date: 05-23-2017

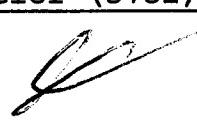
Inmate Signature

Notice of rights given to inmate (Date/time): 05-23-2017

by: J. Dixon, Correctional Counselor (5752)

Staff Printed Name/Signature

(This form may be replicated via WP)

Replaces BP-293(52) of JAN 88.

Ex:C-5

INMATE RIGHTS AT DISCIPLINE HEARING CDFRM

Aug 11

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Institution:

As an inmate charged with a violation of Bureau of Prisons rules or regulations referred to the Discipline Hearing Officer (DHO) for disposition, you have the following rights:

1. The right to have a written copy of the charge(s) against you at least 24 hours prior to appearing before the Discipline Hearing Officer;
2. The right to have a full-time member of the staff who is reasonably available to represent you before the Discipline Hearing Officer;
3. The right to call witnesses (or present written statements of unavailable witnesses) and to present documentary evidence in your behalf, provided institutional safety would not be jeopardized;
4. The right to present a statement or to remain silent. Your silence may be used to draw an adverse inference against you. However, your silence alone may not be used to support a finding that you committed a prohibited act;
5. The right to be present throughout the discipline hearing except during a period of deliberation or when institutional safety would be jeopardized. If you elect not to appear before the DHO, you may still have witnesses and a staff representative appear on your behalf;
6. The right to be advised of the DHO's decision, the facts supporting that decision, except where institutional safety would be jeopardized, and the DHO's disposition in writing; and,
7. The right to appeal the decision of the DHO by means of the Administrative Remedy Procedure to the Regional Director within 20 calendar days of notice of the DHO's decision and disposition.

I hereby acknowledge that I have been advised of the above rights afforded me at a hearing before the Discipline Hearing Officer. I have further been advised that if I have previously received either a presumptive or effective parole date from the Parole Commission, a finding by the DHO that I committed the prohibited act(s) may result in a rescission or retardation by the Parole Commission of the presumptive or effective parole date.

Signed: Concepcion, Alberto

Reg. No.: 09758-087 Date: 05-23-2017

Inmate Signature

Notice of rights given to inmate (Date/time): 05-23-2017 93ep
by: J. Dixon, Correctional Counselor (5752)

Staff Printed Name/Signature
(This form may be replicated via WP)

Replaces BP-293(S2) of JAO SR.

Ex:C-6

BP-A0307

AUG 11

US DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISON

WAIVER OF APPEARANCE

FCI FORT DIX
INSTITUTION

22853-0504
I Concepcion, Alberto 09758-087, have been advised of my right to appear

Name/Register No.

before the UDC on 05-23-2017. I do not wish to appear, and
UDC, DHO, SRO DATE 05-23-2017

I hereby waive that right.

A. Concepcion 087
INMATE SIGNATURE

09758-087
REGISTER NO.

WITNESS: J. Dixon, Correctional Counselor DATE: 05-23-2017
STAFF MEMBER PRINTED NAME/SIGNATURE

I SAW INMATE Concepcion, Alberto 09758-087 05-23-2017
INMATE NAME /REGISTER NO. DATE/TIME

AT CELL 203-338LAD and advised the inmate of the right to appear
before the UDC on 05-23-2017 the inmate declined
to appear at the hearing, and refused to sign a Waiver of Appearance.

Staff member printed name/signature

Second witness printed/signature

(This form may be replicated via WP)

Replaces BP-307(52) of JAN 98

Ex:C-7

SP-5294.052 NOTICE OF DISCIPLINE HEARING BEFORE THE (DHO) CDFRM
 AUG 11
 U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

FCI FORT DIX

Institution

DATE: 05-23-2017

to: Concepcion, Alberto

Reg # 09758-087

ALLEGED VIOLATION(S):

Possessing a dangerous weapon & possessing a hazardous weapon

DATE OF OFFENSE: 05-22-2017

Cod No.: 104/108

You are being referred to the DHO for the above charge(s).

The hearing will be held on: NEXT AVAILABLE DOCKET, at _____ (A.M./P.M.) at the following location:

You are entitled to have a full-time staff member represent you at the hearing. Please indicate below whether you desire to have a staff representative, and if so, his or her name.

ALC I (do) (do not) wish to have a staff representative.

WP If so, the staff representative's name is: _____

You will also have the right to call witnesses at the hearing and to present documentary evidence in your behalf; provided, calling your witnesses will not jeopardize institutional safety. Names of witnesses you wish to call should be listed below.

ALC Briefly state to what each proposed witness would be able to testify.

WP I (do) (do not) wish to have witnesses.

NAME: _____, Can Testify to: _____

NAME: _____, Can Testify to: _____

NAME: _____, Can Testify to: _____

The Discipline Hearing Officer will call those witnesses (Staff or Inmate) who are reasonably available, and who are determined by the DHO to have information relevant to the charge(s). Repetitive witnesses and repetitive character references need not be called. Unavailable witnesses may be asked to submit written statements.

If additional space is needed, use the reverse side of this form. Date, sign, and return this form to the DHO.

DATE: 05-23-2017 SIGNATURE: Concepcion, Alberto 09758-087

Notice of hearing before DHO given inmate 05-23-2017 by J. Dixon, Correctional Counselor (5752)

Date/Time

Staff Printed Name/Signature

(This form may be replicated via WP)

Replaces BP-294(52) of JEM 88

Ex:C-8



U.S. Department of Justice
Federal Bureau of Prisons
Federal Correctional Institution
P.O. Box 38
Joint Base MDL, New Jersey 08640

June 02, 2017

MEMORANDUM FOR DAVID E. ORTIZ, WARDEN

FROM: B. *bv* Cone, Unit 3 Manager

SUBJECT: Concepcion Reg No. 22853-050
Incident Report No. 2989315

The unit team is requesting an extension for the above referenced Unit Discipline Committee (UDC) final hearing. The incident was originally reported by staff on May 18, 2017, for violation of codes 104/Possession, manufacturing, introduction of a weapon and 108/Possession, manufacture, or introduction of a hazardous tool. Ultimately, this incident report was processed for a disciplinary hearing by the Disciplinary Hearing Officer (DHO). At the hearing the DHO suspended the process and remanded the incident report back to the reporting employee for clarification of facts presented. On June 1, 2017, the reporting employee updated the report and a copy was issued to the inmate and the disciplinary process was reinitiated. The UDC received the report from Correctional Services on June 2, 2017.

Because of the seriousness of this incident, violation of codes 104 and 108, the unit team is requesting an extension of the time limit in order for the final UDC hearing to be held. The Warden's approval is required for any extension beyond five working days from the date when the incident was reported by staff.

Approved / Disapproved

[Signature]
DAVID E. ORTIZ
Warden

Ex:C-9

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Part I – Incident Report

1. Institution: FCI Fort Dix		Incident Report Number:	
2. Inmate's Name: Concepcion, Alberto	3. Register Number: 22853-050	4. Date of Incident: 5-18-2017	5. Time: 5:22PM
6. Place of Incident: Unit 5752 Room 307	7. Assignment: East Yard AM		8. Unit: 5752 "F"
9. Incident: Possession, manufacturing, introduction of a weapon Possession, manufacturing, introduction of a cell phone		10. Prohibited Act Code (s): 104, 108	

11. Description of Incident (Date: 05-18-2017 Time: 5:22PM Staff became aware of incident):
 On the above date and time I, Officer J. Harris was conducting a shakedown of Room 307 in Unit 5752. In the unsecured locker of 307-2L I located a magnetized plate on the bottom left corner of the locker. I removed the magnetized metal plate and found contraband hidden in the back of the locker. Items found: 1 black Motorola cell phone, 1 BMW key fob cell phone, 1 3 inch Tac Force switch blade, 1 Sprint sims card, 5 cell phone batteries, 3 homemade cell phone batteries, 1 screw driver bit, and 4 USB cords.
 Since this was a two man room and one locker was unsecured I am charging both inmates with these charges.

All contraband was confiscated and sent to the Lieutenant's Office. Operations Lieutenant notified

12. Typed Name/Signature of Reporting Employee:
J. Harris *J. Harris*

13. Date And Time:
6-1-2017 6:51PM

14. Incident Report Delivered to Above Inmate By
(Type Name/Signature): *6-1-17*

15. Date Incident Report Delivered:
6-1-17

16. Time Incident Report Delivered:
7:25 pm

Part II – Committee Action

17. Comments of Inmate to Committee Regarding Above Incident:

18. A. It is the finding of the committee that you:

Committed the Prohibited Act as charged:
 Did not Commit a Prohibited Act.
 Committed Prohibited Act Code (s). _____

B. The Committee is referring the Charge(s) to the DHO for further Hearing
 C. The Committee advised the inmate of its finding and of the right to file an appeal within 20 calendar days.

19. Committee Decision is Based on Specific Evidence as Follows:

20. Committee action and/or recommendation if referred to DHO (Contingent upon DHO finding inmate committed prohibited act):

21. Date and Time of Action: _____ (The UDC Chairman=s signature certifies who sat on the UDC and that the completed report accurately reflects the UDC proceedings).

Chairman (Typed Name/Signature): _____

Member (Typed Name): _____

Member (Typed Name): _____

INSTRUCTIONS: All items outside of heavy rule are for staff use only. Begin entries with the number 1 and work up. Entries not completed will be voided by staff.

Distribute: Original-Central File Record; COPY-1-DHO; COPY-2-Inmate after UDC Action; COPY 3-Inmate within 24 hours of Part I Preparation

Ex:C-10

PART III - Investigation	22. Date and Time Investigation Began: <u>6-1-17 6:28 pm</u>
--------------------------	--

23. Inmate Advised of Right To Remain Silent: You are advised of your right to remain silent at all stages of the discipline process. Your silence may be used to draw an adverse inference against you at any stage of the discipline process. Your silence alone may not be used to support a finding that you have committed a prohibited act.

The Inmate Was Advised of the Above Right By: Act's Lt R. Torres At (Date/time): June 1, 2017 6:28PM

24. Inmate statement and attitude:

Inmate Concepcion #22853-050 was advised of his rights and stated he understood them.

Inmate Concepcion #22853-050 received a copy of this Incident report.

Inmate Concepcion #22853-050 was read the contents of this report and gave the following statement:

Inmate stated: "I just want to see the DHO and SIA."

Inmate Concepcion #22853-050 displayed a fair attitude during this investigation.

25. Other facts about the incident, statements of those persons present at scene, disposition of evidence, etc:

The items were found in your room and you are supposed to check your living area every day to make sure there is nothing put in your area that doesn't belong there.

26. Investigators comments and conclusions:

Based upon this Incident report, section 11, Inmate Concepcion #22853-050, it is the conclusion of this investigator that you have been appropriately charged with violation code 104, 108: Inmate(s) are not allowed to possess cell phones, cell phone batteries, switch blade, and homemade batteries for cell phones. By having these items you have broken policy. Since it was a 2 man room and the locker was unsecured you and your cell mate are being charged.

27. Action taken:

This incident report will be forwarded to UDC for further disposition. Inmate Concepcion #22853-050 will be placed in the special housing unit.

Date and Time Investigation Completed: June 1, 2017 6:30 PM

Printed Name/Signature of Investigator: R. Torres /  Title: Activities Lieutenant

Ex:C-11

BP-S293.052 INMATE RIGHTS AT DISCIPLINE HEARING CDFRM

MAY 94
U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Institution: FCI Fort Dix, New Jersey

As an inmate charged with a violation of Bureau of Prisons rules or regulations referred to the Discipline Hearing Officer (DHO) for disposition, you have the following rights:

1. The right to have a written copy of the charge(s) against you at least 24 hours prior to appearing before the Discipline Hearing Officer;
2. The right to have a full-time member of the staff who is reasonably available to represent you before the Discipline Hearing Officer;
3. The right to call witnesses (or present written statements of unavailable witnesses) and to present documentary evidence in your behalf, provided institutional safety would not be jeopardized;
4. The right to present a statement or to remain silent. Your silence may be used to draw an adverse inference against you. However, your silence alone may not be used to support a finding that you committed a prohibited act;
5. The right to be present throughout the discipline hearing except during a period of deliberation or when institutional safety would be jeopardized. If you elect not to appear before the DHO, you may still have witnesses and a staff representative appear on your behalf;
6. The right to be advised of the DHO's decision, the facts supporting that decision, except where institutional safety would be jeopardized, and the DHO's disposition in writing; and,
7. The right to appeal the decision of the DHO by means of the Administrative Remedy Procedure to the Regional Director within 20 calendar days of notice of the DHO's decision and disposition.

I hereby acknowledge that I have been advised of the above rights afforded me at a hearing before the Discipline Hearing Officer. I have further been advised that if I have previously received either a presumptive or effective parole date from the Parole Commission, a finding by the DHO that I committed the prohibited act(s) may result in a rescission or retardation by the Parole Commission of the presumptive or effective parole date.

Inmate Name: Concepcion Reg. No.: 22853-050 Date: 6/7/17

Inmate Signature: (Signature) Attala County Prisoner Chancery Court 207/308

Notice of rights given to inmate (Date/time): _____

By: GONZALEZ, J. / (Signature)

Staff Printed Name/Signature

(This form may be replicated via WP)

Replaces BP-S293(52) of JAN 88.

Ex:C-12

FCI FORT DIX, NEW JERSEY

Institution

Date

TO: Conception Reg. No.: 22853-050

ALLEGED VIOLATION(S) Possession of a wrap
Possession of a hazardous tool

DATE OF OFFENSE: 5-18-17 Code No.: 104 / 107

You are being referred to the DHO for the above charge(s).

The hearing will be held on: NEXT AVAILABLE (A.M./P.M.) at the following location: FCI FORT DIX
DOCKET

You are entitled to have a full-time staff member represent you at the hearing. Please indicate below whether you desire to have a staff representative, and if so, his or her name.

I (do) (do not) wish to have a staff representative.

If so, the staff representative's name is: _____

You will also have the right to call witnesses at the hearing and to present documentary evidence in your behalf; provided, calling your witnesses will not jeopardize institutional safety. Names of witnesses you wish to call should be listed below. Briefly state to what each proposed witness would be able to testify.

I (do) (do not) wish to have witnesses.

NAME: Colon, Jose 806267-050 Can Testify to: Inmate witness cannot testify to violation or provide any pertinent information regarding incident (Inmate Colon is his Sh cellmate)

NAME: _____ Can Testify to: _____

NAME: _____ Can Testify to: _____

The Discipline Hearing Officer will call those witnesses (Staff or Inmate) who are reasonably available, and who are determined by the DHO to have information relevant to the charge(s). Repetitive witnesses and repetitive character references need not be called. Unavailable witnesses may be asked to submit written statements.

If additional space is needed, use the reverse side of this form. Date, sign, and return this form to the DHO.

DATE: 6/7/17

SIGNATURE: X

Notice of hearing before DHO given to inmate 6/7/17/1200p by

Date/Time

Staff Printed Name/Signature

Replaces BP-294(52) of JAN 88

(This form may be replicated via WP)

Ex: C-13

OPI: LEGAL DEPARTMENT

Number: FTD 1330.16

Date: October 1, 2010

Attachment: 1

FCI FORT DIX, NEW JERSEY
INFORMAL RESOLUTION FORM (BP-8)

You are advised that prior to receiving and filing a Request for Administrative Remedy Form BP-229 (old BP-9), you MUST ordinarily attempt to informally resolve your complaint through your Correctional Counselor. Briefly state ONE complaint below and list what efforts you have made to resolve your complaint informally and state names of staff contacted.

6-19-17

Date form issued and initials of Correctional Counselor: J. Ditch

INMATE NAME ALBERTO CONCEPCION
REGISTER NO. 22853-050
BLDG. SHU 338

Date the incident complained of occurred: June 19, 2017

Complaint and relief requested: _____

SEE ATTACHMENT

CORRECTIONAL COUNSELOR:

Date BP-8 returned to Correctional Counselor: J. Ditch 7-16-17

Efforts made to informally resolve and staff contacted: _____

See a law

Date response given to inmate: 7-17-17

Counselor (sign)

Date BP-229 (13) Issued: 7-17-17

Unit Manager (sign)

If complaint is NOT informally resolved: forward original attached to BP-229(13) form to the Legal Assistant.

Ex: C-14

On June 7, 2017, counselor J. GONZALEZ, advised CONCEPCION, of his inmate rights at discipline hearing; however, GONZALEZ, knowingly, intentionally, & willingly violated CONCEPCION's Constitutional & DHO hearing rights when he failed to place "CONCEPCION's witness" BENJAMIN RESTO, #16278-054, as his witness; as GONZALEZ, also misinformed CONCEPCION, of his alleged violated prohibited act codes "prior" to his June 22, 2017, DHO hearing.

REMEDY: That J. GONZALEZ, be punished for knowingly, intentionally, & willingness to violate CONCEPCION's Constitutional Rights, & his DHO hearing Rights, inter alia, in accordance with P.S. 3420.11.

C.C. File; CONCEPCION's Attorney; & the FOP Central Office Internal Affairs Unit.

Ex:C-15

Respectfully Requested &
Submitted By:

DATED: June 24, 2017

Officer/Concepcion
Without Prejudice U.C.C. I-
209/308

RECEIVED BY:

PRINT NAME

SIGNATURE

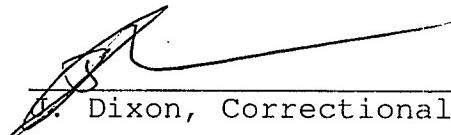
Inmate Name: Concepcion, Alberto
Register Number: 22853-050
Unit: 5752

This is in response to your request for administrative remedy received in this office on 07-16-2017. You request administrative relief because you are stating counselor Gonzalez failed to place Inmate Resto #16278-054 as your witness.

A review of this matter revealed, an incident report was written on both you and inmate Resto #16278-054 for code 104 possessing a dangerous weapon and code 108 possessing a hazardous tool. Since you were both occupants of the two man room were the contraband was found. Therefore inmate Resto could not be a witness since he was already a subject to the same incident report as you.

Based on the above information, your claim was addressed. If you are not satisfied, you can file further through the Administrative Remedy Procedure process.

7-17-17
Date


Dixon, Correctional Counselor

Ex:C-16

FTDLZ 606.00 *
PAGE 001 OF 001

MALE CUSTODY CLASSIFICATION FORM

* 07-25-2016

15:46:12

(A) IDENTIFYING DATA

REG NO...: 22853-050

FORM DATE: 07-18-2016

ORG: FTD

NAME....: CONCEPCION, ALBERTO

MGTV: NONE

PUB SFTY: NONE

MVED:

(B) BASE SCORING

DETAINER: (0) NONE

SEVERITY.....: (3) MODERATE

MOS REL.: 47

CRIM HIST SCORE: (02) 2 POINTS

ESCAPES.: (0) NONE

VIOLENCE.....: (0) NONE

VOL SURR: (0) N/A

AGE CATEGORY...: (2) 36 THROUGH 54

EDUC LEV: (2) NO VERFD HS/ NO GED

DRUG/ALC ABUSE.: (0) NEVER/>5 YEARS

(C) CUSTODY SCORING

TIME SERVED.....: (5) 76-90%

PROG PARTICIPAT: (2) GOOD

LIVING SKILLS....: (2) GOOD

TYPE DISCIP RPT: (5) NONE

FREQ DISCIP RPT.: (3) NONE

FAMILY/COMMUN.: (4) GOOD

--- LEVEL AND CUSTODY SUMMARY ---

BASE CUST VARIANCE	SEC TOTAL	SCORED LEV	LEV MGMT	SEC LEVEL	CUSTODY	CONSIDER
+9	+21	-5	+4	MINIMUM	N/A	IN DECREASE

G5149INMATE/DESIG FACL LEVEL MISMATCHED, HAVE DSCC ADD A MGTVG0005TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

Ex:C-17

ALMIA 606.00 *

MALE CUSTODY CLASSIFICATION FORM

*

10-02-2017

14:41:59

PAGE 001 OF 001

(A) IDENTIFYING DATA

REG NO...: 22853-050

FORM DATE: 08-07-2017

ORG: DSC

NAME....: CONCEPCION, ALBERTO

MGTV: GRTR SECU

PUB SFTY: GRT SVRTY

MVED: 03-31-2019

(B) BASE SCORING

DETAINER: (0) NONE

SEVERITY.....: (7) GREATEST

MOS REL.: 36

CRIM HIST SCORE: (02) 2 POINTS

ESCAPES.: (0) NONE

VIOLENCE.....: (0) NONE

VOL SURR: (0) N/A

AGE CATEGORY....: (2) 36 THROUGH 54

EDUC LEV: (2) NO VERFD HS/ NO GED DRUG/ALC ABUSE.: (0) NEVER/>5 YEARS

(C) CUSTODY SCORING

TIME SERVED.....: (4) 26-75%

PROG PARTICIPAT: (0) POOR

LIVING SKILLS....: (0) POOR

TYPE DISCIP RPT: (0) GREATEST

FREQ DISCIP RPT.: (2) 1

FAMILY/COMMUN...: (4) GOOD

--- LEVEL AND CUSTODY SUMMARY ---

BASE CUST VARIANCE	SEC TOTAL	SCORED LEV	MGMT SEC	LEVEL	CUSTODY	CONSIDER
+13	+10	+2	+15	LOW	HIGH	IN

G0005

TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

Ex:C-18

SEP 2006

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

From: (Warden/Superintendent)	Facility	Date
David E. Ortiz, Warden	FCI Fort Dix, NJ 08640	July 20, 2017
Inmate's Name	Register No.	
Concepcion, Alberto	22853-050	
To: (Designations and Sentence Computation Center Administrator) DSCC Administrator		
<input checked="" type="checkbox"/> Transfer to: Any Medium Level Security Facility (307/Greater Security) (323/Closer Supervision)		
<input checked="" type="checkbox"/> Apply Management Variable(s) Greater Security, Code V, (01-20-2019)		
<input type="checkbox"/> Update Management Variable Expiration Date		
1. Inmate's Medical Status: Inmate Concepcion is a Care Level 1 Mental Health and Care Level 2 Medical Health inmate, assigned to regular duty with no noted medical restrictions.		
2. Institution Adjustment Inmate Concepcion arrived at FCI Fort Dix on November 30, 2007, as an Lesser Security transfer. He is currently serving a 275 month PLRA sentence for Conspiracy to Distribute Narcotics (Heroin). He has a projected release date of August 13, 2020, via Good Conduct Time Release. He received a felony assessment fee in the amount of \$100.00, and fine in the amount of \$10,000.00. He successfully completed payment of his fee and participates in payment of his fine through the Inmate Financial Responsibility Program with a \$25.00 quarterly amount. His remaining balance is \$8,329.86. He has no other court ordered financial obligations to fulfill. On June 22, 2017, inmate Concepcion was found guilty by the Discipline Hearing Officer (DHO) of Possessing a Dangerous Weapon, Code 104, and Possessing a Hazardous Tool, Code 108. Based on this behavior, his institutional adjustment is rated as poor.		
3. Rationale for Referral: Inmate Concepcion is classified as a Low security level inmate with In custody. He has informed the Unit Team he plans to reside in Baltimore, Maryland, upon release from custody. On June 22, 2017, inmate Concepcion was found guilty by the DHO of Possessing a Dangerous Weapon, Code 104, and Possessing a Hazardous Tool, Code 108. Specifically, he was involved in the use and introduction of a cellular telephone and knife to the compound, which undermines the Bureau of Prisons telephone monitoring program, and compromises the safety and security of the institution. Additionally, on June 29, 2017, Inmate Investigative Report, FTD-17-0187, was received which concluded, based on the serious nature of the contraband recovered from inmate Concepcion, he is considered a serious threat to orderly running of this institution. Based on the above, the Unit Team has determined inmate Concepcion inappropriate for placement at a Low security level facility, and therefore requests transfer to any Medium security level facility for Close Supervision and Greater Security purposes. Inmate Concepcion is classified under the Central Inmate Monitoring System.		
4a. Parole Hearing Scheduled: Yes No N/A		b. If yes, when
5. Note any past or present behavior and/or management/inmate concerns. Inmate Concepcion has attempted to undermine and interfere with the orderly running of this institution via the use/possession of a cellular telephone and knife.		
6. BP337/BP338 Discrepancies. The BP-337 lists Severity as Moderate. According to Program Statement 5100.08, Security Designation and Custody Classification Manual, inmate Concepcion's Severity is classified as Greatest, as reflected on the BP-338. Additionally, the BP-338 reflects the Public Safety Factor of Greatest Severity. The BP-338 lists Violence as 5-10 years Serious. Through the Administrative Remedy process, it was determined that inmate Concepcion's conviction for Death by Auto is not a violent crime offense. Therefore, the BP-338 lists Violence as None. The BP-338 lists a Low/Low Moderate detainer. On September 21, 2001, inmate Concepcion's charge for Conspiracy to Distribute 8.5 Grams of Heroin was dismissed by the Essex County Superior Court, Newark, New Jersey. Therefore, the BP-337 reflects Detainer as None. The BP-338 lists the Public Safety Factor of Sentence Length. As inmate Concepcion has 37 months remaining to serve on his federal sentence, the Public Safety Factor of Sentence Length is no longer applicable and not reflected on the BP-338. There are no other noted discrepancies between the BP-337 and BP-338.		
Staff have checked the following SENTRY Programs to ensure that they are correct and current: Inmate Profile CIM Clearance and Separatee Data Inmate Load Data Custody Classification Form Sentence Computation Chronological Disciplinary Record		
Prepared by: (Case Manager) K. Smith, Case Manager	Unit Manager Signature B. O'Conor, Unit Manager	

If the transfer is approved, a Progress Report will be completed prior to transfer.

*For Mariel Cuban Detainees - Staff have entered the CMA Assignment of ACRP RV DT# to indicate the need for a Cuban Review Panel Hearing four months from his/her Roll-Over Date.

Ex:C-19

Institution: FCI FT. DIX	Incident Report number: 2989315	
NAME OF INMATE: CONCEPCION, ALBERTO	REG. NO.: 22853-050	UNIT: (3) 5752
Date of Incident Report: 06-01-2017	Offense Code: 108, 104	

Date of Incident: 05-18-2017

Summary of Charges: Possession of a Hazardous Tool, Possessing a Dangerous Weapon

I. NOTICE OF CHARGE(S)

- A. Advanced written notice of charge (copy of Incident Report) was given to inmate on (date) 06-01-2017 at (time) 7:39 p.m. (by staff member) R. Torres
- B. The DHO Hearing was held on (date) 06-22-2017 at (time) 09:27 a.m.
- C. The inmate was advised of the rights before the DHO by (staff member): J. Gonzalez (date) 06-07-2017 and copy of the advisement of rights form is attached.

II. STAFF REPRESENTATIVE

- A. Inmate waived right to staff representative. Yes X No _____.
- B. Inmate requested staff representative and N/A.
- C. Staff Representative statement: N/A
- D. Requested staff representative declined or could not appear but inmate was advised of option to postpone hearing to obtain another staff representative with the result that: (New Staff Representative Name) N/A was selected.
- E. Staff representative N/A was appointed.

III. PRESENTATION OF EVIDENCE

- A. Inmate _____ (admits) X (denies) _____ (neither) the charge(s).

B. Summary of inmate statement:

Inmate CONCEPCION, ALBERTO register number 22853-050 stated he was ready to proceed. He did not request a staff representative. He did not request a witness. Inmate CONCEPCION stated he received his copy of the Incident Report. He stated that they re-wrote the shot and he was in the room for two months. He stated he did have a problem with staff back in 2008.

C. Witnesses:

1. Inmate waived right to witness. Yes X No _____

2. The following persons were called as witness at this hearing and appeared (Each witness name and statement listed below): N/A

3. The following persons requested were not called for the reason(s) given (Each witness name and statement listed below): N/A

4. Unavailable witnesses were requested to submit written statements and those statements received were considered (Each witness name and statement listed below). N/A

D. Documentary Evidence:

Black and white photos of cell phones, switch blade knife, earbuds, cellphone batteries.

E. Confidential information was used by DHO in support of his findings, but was not revealed to the inmate. The confidential information was documented in a separate report. The confidential information has been (confidential informants have been) determined to be reliable because: N/A.

IV. FINDINGS OF THE DHO

- X A. The act was committed as charged. C. No prohibited act was committed:
Expunge according to Inmate Discipline PS.
 B. The following act was committed:

V. SPECIFIC EVIDENCE RELIED ON TO SUPPORT FINDINGS (Physical evidence, observations, written documents, etc.):

I find that on May 18, 2017, at approximately 5:22 p.m., at the Federal Correctional Institution, Fort Dix, New Jersey, you did commit the prohibited act of Code 108- Possession of a hazardous

Ex:C-20

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU PRISONS

Name of Inmate: CONCEPCION, ALBERTO	Reg. No.: 22853-050	Hearing Date: 06-22-2017
-------------------------------------	---------------------	--------------------------

tool, and code 104- Possessing a Dangerous Weapon.

This decision is based on the evidence provided before me which is documented in the written report provided by the reporting employee. The employee documented,

On the above date and time I, Officer J. Harris was conducting a shakedown of Room 307 in Unit 5752. In the unsecured locker of 307-2L I located a magnetized plate on the bottom left corner of the locker. I removed the magnetized metal plate and found the contraband hidden in the back of the locker. Items found 1 black Motorola cell phone, 1 BMW key fob cell phone, 1 3inch Tac Force switch blade. 1 sprint sims card, 5 cell phone batteries, 3 homemade cell phone batteries, 1 screw driver bit, and 4 USB cords. Since this was a two man room and one locker was unsecured I am charging both inmates with these charges. All contraband was confiscated and sent to the Lieutenant's Office. Operations Lieutenant notified.

The DHO took into consideration your statements at the hearing, specifically; He stated that they re-wrote the shot and he was in the room for two months. He stated he did have a problem with staff back in 2008.

The staff did have authorization to proceed with the process after the incident report was re-written and you received an updated copy.

You do not deny that the room is assigned to you and the contraband was discovered in the room.

Based upon the evidence provided before me, your actions are consistent with Code 108- Possession of a hazardous tool, 104- Possessing a Dangerous Weapon.

VI. SANCTION OR ACTION TAKEN (List each prohibited act with respective sanctions for that act):
104

Disallowance of Good Conduct Time: 40 Days
Loss of Commissary Privileges: 60 Days Starts 06-22-2017 Ends 08-20-2017

108

Disallowance of Good Conduct Time: 40 Days
Loss of Phone Privileges: 60 Days Starts 6-22-2017 Ends 08-20-2017

VII. REASON FOR EACH SANCTION OR ACTION TAKEN:

Having a switch blade knife, as documented in this incident report, demonstrates a disregard for the rules and regulations as established as well as clearly demonstrates a willingness and ability to inflict grievous bodily harm on other individuals with this item.

The action on the part of any inmate to possess, manufacture, or introduce a hazardous tool into any correctional institution threatens the safety and security, not only of the inmate involved, but that of the entire institution. In the recent past, inmates have used hazardous tools to affect escapes, and seriously injure other inmates and staff members. A cell phone fall under the classification of a hazardous tool, as they have been found to arrange rendezvous for escapes, and has been used to arrange contraband introductions, and further allows the inmate to make contact with individuals outside the institution, possibly for illicit or illegal activities, without the knowledge of staff.

Disallowance of Good Conduct Time, loss of Commissary, and Telephone privileges, are meant to demonstrate the seriousness of this offense to you as well as everyone incarcerated at this facility.

VIII. APPEAL RIGHTS: The inmate has been advised of the findings, specific evidence relied on action and reasons for the action. The inmate has been advised of the right to appeal this action within 20 calendar days under the Administrative Remedy Procedure. A copy of this report has been given to the inmate.

IX. Discipline Hearing Officer

Printed Name: A. Boyce	Signature: <i>A.Boyce</i>	Date: July 12, 2017
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Ex:C-21

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU PRISONS

Name of Inmate: CONCEPCION, ALBERTO	Reg. No.: 22853-050	Hearing Date: 06-22-2017
-------------------------------------	---------------------	--------------------------

DHO report delivered to Inmate by: A.Boyce
Signature

A.Boyce
Printed Name (Staff)

0773-17 0930
Date and Time:

Prescribed by P5270

Replaces BP-A0304 of AUG 11

Ex:C-22

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: JULY 21, 2017

encl *Rejection Notice*
FROM: ADMINISTRATIVE REMEDY COORDINATOR
NORTHEAST REGIONAL OFFICE

TO : ALBERTO CONCEPCION, 22853-050
FORT DIX FCI UNT: UNIT 3 QTR: Z03-318UAD
P.O. BOX 38
JOINT BASE MDL, NJ 08640

FOR THE REASONS LISTED BELOW, THIS REGIONAL APPEAL
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDIY ID : 909669-R1 REGIONAL APPEAL
DATE RECEIVED : JULY 20, 2017
SUBJECT 1 : DHO APPEAL - COMBINED (PROCEDURES, EVIDENCE & SANCTIONS)
SUBJECT 2 :
INCIDENT RPT NO: 2989315

REJECT REASON 1: YOU DID NOT SUBMIT A COMPLETE SET (4 CARBONIZED
SHEETS) OF THE REQUEST (BP-9) OR APPEAL
(BP-10 OR BP-11) FORM. (CIRCLE ONE)

REJECT REASON 2: YOU MAY ONLY SUBMIT ONE CONTINUATION PAGE, EQUIV. OF ONE
LETTER-SIZE (8.5 X 11) PAPER. TEXT ON ONE SIDE. THE
TEXT MUST BE LEGIBLE.

REJECT REASON 3: YOU DID NOT SUBMIT PROPER NUMBER OF CONTINUATION PAGES
WITH YOUR REQUEST/APPEAL. 2 - WARDEN'S LEVEL; 3 -
REGIONAL LEVEL; AND 4 - CENTRAL OFFICE LEVEL. THE
NUMBER CITED INCLUDES YOUR ORIGINAL.

REJECT REASON 4: YOU MAY RESUBMIT YOUR APPEAL IN PROPER FORM WITHIN
10 DAYS OF THE DATE OF THIS REJECTION NOTICE.

Ex:C-23

Sales Invoice ---S.B.U.---
Fort Dix FCI
WEST
Account No. 22853050 TF17469
CONCEPCION, ALBERTO
07/31/2017 01:15:34 PM TX#12484658 75

BEGINNING BALANCES:

Available Balance is \$88.77
Spending Limit Balance is \$21.60
Account Balance is \$88.77

Qty	Description	Price
1	STAMP BOOK	\$9.00
1	SUAVE D.C. SHAMPO	\$1.85
1	VITAMIN B AT	\$3.25
1	LEGAL PADS	\$1.10
	Total	\$16.00

Charge 22853050 \$16.00

Items marked with * are Local Use Only

ENDING BALANCES:

Available Balance is \$72.77
Spending Limit Balance is \$15.40
Account Balance is \$72.77

Signature

ALL SALES ARE FINAL !

Ex:C-24

TO: THE NORTHEAST REGIONAL OFFICE
2nd, & Chestnut St., (7th Fl.)
Philadelphia, Pa. 19106

FROM: ALBERTO CONCEPCION, #22853-050
F.C.I Allenwood (MEDIUM)
White Deer, Pa. 17887

RE: STATUS OF APPEAL FOR #909669-R2

I, ALBERTO CONCEPCION, hereby request to know "why" I have not received any response to my Appeal #909669-R2, regarding the DHO decision on June 22, 2017, at F.C.I Fort Dix for the incident report that I received on May 18, 2017 ?

Respectfully Requested, &
Submitted By:

DATED: Oct. 24, 2017

Alberto Concepcion
Pro Se Alberto Concepcion,
"on behalf of"
ALBERTO CONCEPCION

WITHOUT PREJUDICE U.C.C. 1-
207/308

c.c. File: & Cert. Mail to the
Northeast Regional Office
#7009-0960-0000-9617-1175.

DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

OCT 30 2017

NERO-PHILADELPHIA

Ex:C-25



U.S. Custom House - 7th Floor
2nd and Chestnut Streets
Philadelphia, PA 19106

November 3, 2017

Alberto Concepcion, Reg. NO. 22853-050
FCI Allenwood
PO Box 2000
White Deer, PA 17887

RE: Status request for Administrative Remedy no. 909669-R2

Dear Mr. Concepcion:

This is in response to your status request on the above
Administrative Remedy number.

Your appeal was received at the Northeast Regional Office on
August 10, 2017. It was rejected on August 11, 2017, because
it was untimely filed.

I trust this information is responsive to your request.

Sincerely,

Joyce M. Horikawa
Acting Regional Counsel

Ex:C-26

EMS-036.010
JAN 97

U.S. DEPARTMENT OF JUSTICE

RATED CAPACITY COMPUTATION CDFRM SENTRY EMS

FEDERAL BUREAU OF PRISONS

Institution FCI FORT DIX	Ex : C-27	Date 07/12/2013
Sentry Reporting Unit GEN POP (page 1 of 3)		Security Level LOW

Total Institution Capacity : 3863 (Sum of items 1 and 2)

Special Housing Capacity (-): 162 (Item 1 Total, if any)

Rated Capacity : 3701 (Item 2 Less item 1)

1. Special Housing: Administrative Detention/Disciplinary segregation and Hospital/Infirmary (Non-Medical Facilities)

Unit Name	Housing Type (Room, Cell, etc)	Wet/ Dry	Numb er	SqFt Each	Capacity
5706	SUICIDE ROOM	WET	2	130	4
5806	SUICIDE ROOM	WET	1	90	1
5806	ISOLATION ROOM	WET	1	103	1
5845	AD/DS SHU	WET	74	80	148
5845	H/C AD/DS	WET	4	85	8

Special Housing Capacity: 162

2. Permanent Housing:

Unit Name	Housing Type (Room, Cell, etc)	Wet/ Dry	Numb er	SqFt Each	Capacity
5702, 5703 UNIT 1	ROOM	DRY	48	517	432
UNIT 1	ROOM	DRY	60	165	180
UNIT 1	ROOM	DRY	2	246	8
UNIT 1	ROOM	DRY	8	124	16
UNIT 1 TOTAL	ROOM	DRY	8	118	16
					652
5711, 5741 UNIT 2	ROOM	DRY	48	517	432
UNIT 2	ROOM	DRY	60	165	180
UNIT 2	ROOM	DRY	2	246	8
UNIT 2	ROOM	DRY	8	124	16
UNIT 2 TOTAL	ROOM	DRY	8	118	16
					652

EMS-036.010

JAN 97

U.S. DEPARTMENT OF JUSTICE**RATED CAPACITY COMPUTATION CDFRM SENTRY EMS****FEDERAL BUREAU OF PRISONS**Institution
FCI FORT DIX

Ex: C-28

Date
07/12/2013Sentry Reporting Unit
GEN POP (page 2 of 3)Security Level
LOW

1. Special Housing: N/A **Administrative Detention/Disciplinary segregation and Hospital/Infirmary (Non-Medical Facilities)**

Unit Name	Housing Type (Room, Cell, etc)	Wet/ Dry	Num ber	SqFt Each	Capacity
-----------	--------------------------------------	-------------	------------	--------------	----------

2. Permanent Housing:

Unit Name	Housing Type (Room, Cell, etc)	Wet/ Dry	Num ber	SqFt Each	Capacity
5751, 5752 UNIT 3	ROOM	DRY	48	517	432
UNIT 3	ROOM	DRY	60	165	180
UNIT 3	ROOM	DRY	2	246	8
UNIT 3	ROOM	DRY	8	124	16
UNIT 3 TOTAL	ROOM	DRY	8	118	16
					652
5802, 5803 UNIT 4	ROOM	DRY	48	517	432
UNIT 4	ROOM	DRY	54	165	162
UNIT 4	ROOM	DRY	3	246	12
UNIT 4	ROOM	DRY	6	124	12
UNIT 4 TOTAL	ROOM	DRY	1	1528	25
					118
					655

EMS-036.010

RATED CAPACITY COMPUTATION CDFRM SENTRY EMS

JAN 97

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Institution FCI FORT DIX	Ex:C-29	Date 07/12/2013
Sentry Reporting Unit GEN POP (page 3 of 3)		Security Level LOW

Total Institution Capacity : (Sum of items 1 and 2)

Special Housing Capacity (-): _____ (Item 1 Total, if any)

Rated Capacity : (Item 2 Less item 1)

1. Special
Housing: N/A Administrative Detention/Disciplinary segregation and
Hospital/Infirmary (Non-Medical Facilities)

Unit Name	Housing Type (Room, Cell, etc)	Wet/ Dry	Num ber	SqFt Each	Capacity
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Permanent Housing:

Unit Name	Housing Type (Room, Cell, etc)	Wet/Dry	Number	SqFt Each	Capacity
5811, 5812 UNIT 5	ROOM	DRY	48	517	432
UNIT 5	ROOM	DRY	60	165	180
UNIT 5	ROOM	DRY	2	246	8
UNIT 5	ROOM	DRY	8	124	16
UNIT 5 TOTAL	ROOM	DRY	8	118	<u>16</u> 652
5841, 5851 UNIT 6	ROOM	DRY	33	517	297
UNIT 6	ROOM	DRY	39	165	117
UNIT 6	ROOM	DRY	1	246	4
UNIT 6	ROOM	DRY	2	124	4
UNIT 6 Total	ROOM	DRY	8	118	<u>16</u> 438

Permanent

Housing

Rated Capacity

3701

Original - Regional Director ; Copy - Institution (for auditing purpose);

(This form may be replicated via WP)

Page 1

Please report any temporary housing, renovations or expansions of housing units under items 3 and 4 below. Enter none under Unit Name if there are none to report.

3. Temporary Housing: These areas were not designed for/have not been permanently

converted to inmate bedspace and are not part of rated or total institution capacity.

Unit Name	Housing Type (TV Room, Gym, etc)	Wet/ Dry	Num ber	SqFt Each	Capacity
-----------	--	-------------	------------	--------------	----------

4. Renovation/Expansion (Future Rated Capacity):

Unit Name	Housing Type (Room, Cell, etc)	Wet/ Dry	Num ber	SqFt Each	Projected Completion Date / Capacity
-----------	-----------------------------------	-------------	------------	--------------	---

Explanation for any changes to rated capacity:

Signature of Facility Manager	<i>[Signature]</i>	(b)(5),(b)(7)(C),(b)(7)(F)	Date Prepared 7/12/13
Signature of Chief Executive Officer	<i>[Signature]</i>		Date Approved <i>7/15/13</i>
Signature of Facilities Administrator	<i>[Signature]</i>		Date Reviewed
Signature of Regional Director	<i>[Signature]</i>		Date Approved

Mail the Original Signed Form(s) to:

Federal Bureau of Prisons
Assistant Director
Administration Division
320 First St., NW - Room 5009
Washington, D.C. 20534

Ex: C-30

Page 2

END FORM

EMS-036.010

JAN 97

U.S. DEPARTMENT OF JUSTICE**RATED CAPACITY COMPUTATION CDFRM SENTRY EMS****FEDERAL BUREAU OF PRISONS**

Institution FCI FORT DIX	<u>Ex:C-31</u>	Date 07/12/2013
Sentry Reporting Unit RDAP 5852		Security Level LOW

Total Institution Capacity : 260 (Sum of items 1 and 2)

Special Housing Capacity (-): N/A (Item 1 Total, if any)Rated Capacity : 260 (Item 2 Less item 1)

1. Special Housing: N/A Administrative Detention/Disciplinary segregation and Hospital/Infirmary (Non-Medical Facilities)

Unit Name	Housing Type (Room, Cell, etc)	Wet/ Dry	Num ber	SqFt Each	Capacity

. Permanent Housing:

Unit Name	Housing Type (Room, Cell, etc)	Wet/D ry	Numb er	SqFt Each	Capacity
5852 RDAP UNIT 6	ROOM	DRY	24	517	216
UNIT 6	ROOM	DRY	12	165	36
UNIT 6	ROOM	DRY	1	246	4
UNIT 6	ROOM	DRY	1	124	2
TOTAL			1	118	<u>2</u>
					<u>260</u>

**RDAP Rated
Capacity****TOTAL 260**

Original - Regional Director ; Copy - Institution (for auditing purpose);

(This form may be replicated via WP)

Page 1

Please report any temporary housing, renovations or expansions of housing units under

items 3 and 4 below. Enter none under Unit Name if there are none to report.

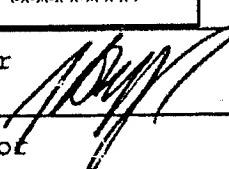
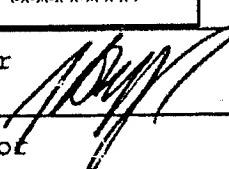
3. Temporary Housing: These areas were not designed for/have not been permanently converted to inmate bedspace and are not part of rated or total institution capacity.

Unit Name	Housing Type (TV Room, Gym, etc)	Wet/ Dry	Num ber	SqFt Each	Capacity

4. Renovation/Expansion (Future Rated Capacity):

Unit Name	Housing Type (Room, Cell, etc)	Wet/ Dry	Num ber	SqFt Each	Projected Completion Date / Capacity

Explanation for any changes to rated capacity: Changes to rated capacity are due to current open Project 2A3Z, Renovate 5852/5851 RDAP. This RDAP utilizes the existing Special Housing as needed. A final rated capacity will be updated upon completion of the Project.

Signature of Facility Manager	(b)(6),(b)(7)(C),(b)(7)(F)	Date Prepared 7/12/13
Signature of Chief Executive Officer		Date Approved 7/15/13
Signature of Facilities Administrator		Date Reviewed
Signature of Regional Director		Date Approved

Mail the Original Signed Form(s) to:

Federal Bureau of Prisons
Assistant Director
Administration Division
320 First St., NW - Room 5009
Washington, D.C. 20534

Ex: C-32

BP-A0288

Jan 17

U.S. DEPARTMENT OF JUSTICE

INCIDENT REPORT

FEDERAL BUREAU OF PRISONS

Part I - Incident Report

1. Institution: FCI FT. DIX		Incident Report Number:	
2. Inmate's Name CROSS, DOUGLAS KENNETH	3. Register Number 50101-056	4. Date Of Incident 8-17-2017	5. Time 6:28AM
6. Place Of Incident UNIT-D Room 216	7. Assignment SHU UNASSG	8. Unit SPECIAL HOUSING UNIT	
9. Incident: POSSESSION OF A HAZARDOUS TOOL		10. Code: 108	

11. Description Of Incident (Date: 8-17-17 Time: 6:28a.m. Staff become aware of incident) Based on the final review of the investigation for case FTD-17-0236, inmate Lee, Reg. No. 66605-050 and Williams, Reg. No. 50477-083 was observed on videos that were uploaded by a cell phone that was viewed by this investigator on July 24, 2017, assaulting inmate Bick, Reg. No. 22765-014 in Unit-D room 216. Specifically, in the video inmate Lee has inmate Bick in a choke hold, while Bick is sitting in a chair, inmate Lee is heard saying "Get off your chair" repeatedly. Then ten seconds into the video inmate Williams is touching inmate Bick's left leg to trying to assist inmate Lee in getting inmate Bick out of the chair. Then 13 seconds into the first video inmate Lee says to inmate Bick "Say sorry, I don't like the way you disrespected me, why you disrespect me like that?" Then 26 seconds into the video inmate Williams pulls the blue chair that inmate Bick was sitting on out the way so inmate Lee can lay him onto the floor. At no time during this video did inmate Williams attempt to stop the assault on inmate Bick. Then 5 seconds into the 2nd video inmate Lee states "Let me break him down, look at his face, this is Ian when keeping it real goes wrong, tap out tap out Ian." Inmate Cross, Douglas Kenneth, Reg. No. 50101-056, was identified by inmate Bick as the individual that was recording the assault with the cell phone. Then inmate Bick says 41 seconds into the 2nd video "Don't ever choke me like that again motherfucker, I got your watch now. It's over; I just got out a choke hold." Then right before the video cuts off inmate Lee can be seen trying to pull inmate Bick away from bed 3 lower by his legs. Inmate Bick says, "You attacked me", this assault took place in 5741 between beds 2 lower and 3 lower in room 216.

12. Typed Name/Signature Of Reporting Employee C. Atkinson, SIS Lieutenant	13. Date And Time 8-20-17 7:20a.m.	
14. Incident Report Delivered To Above Inmate By (Type Name/Signature)	15: Date Incident Report Delivered 8-20-17 12:40	16. Time Incident Report Delivered 12:40

Part II - Committee Action

17. Comments Of Inmate To Committee Regarding Above Incident

18. A. It Is The Finding Of The Committee That You: ____ Committed The Following Prohibited Act. ____ Did Not Commit A Prohibited Act. ____ Committed Prohibited Act Code(s) _____	B. The Committee Is Referring The Charge(s) To The DHO For Further Hearing. C. The Committee Advised The Inmate Of Its Finding And Of The Right To File An Appeal Within 20 Calendar Days.
---	---

19. Committee Decision Is Based On Specific Evidence as Follows:

20. Committee action and/or recommendation if referred to DHO (Contingent upon DHO finding inmate committed prohibited act):

Ex: C-33

U.S. Department of Justice

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-DIR-9 including any attachments must be submitted with this appeal.

From: Cross, Douglas, K LAST NAME, FIRST, MIDDLE INITIAL REG. NO. 50101-056 UNIT 3A INSTITUTION Allenwood Medium

Part A—REASON FOR APPEAL In April of 2009, DOUGLAS K. CROSS (D/C), arrived at F.C.I. Fort Dix (FTD). On Oct. of 2016, D/C, plead guilty before the DHO for a 108 write-up. On July 24, 2017, D/C, was placed under S.I.S investigation "for an alleged assault", & was placed in the SHU on the assault investigation. On Aug. 20, 2017, D/C, was given a incident report for possession of a hazardous tool. SEE, Ex: K-1, & K-2↓ herewith.

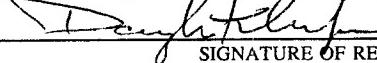
On Sept. 26, 2017, D/C, was found guilty by DHO officer BOYCE, for possession of a hazardous tool.

D/C, contends that during his UDC, hearing, & signing of his inmate rights at discipline hearing he requested said UDC, that he wanted inmate WILLIAMS (#50477-083), & LEE (#66605-050), to be his witnesses during said DHO hearing which said DHO officer (BOYCE) "refuse"; claiming that he was not allowed to have his witnesses present during said DHO hearing, of which is a coomon practice at FTD; however, inmate WILLIAMS, provided a statement to the DHO office (BOYCE) stating that inmate D/C, "was not present" during said video recording in cell 216, unit 5741.

D/C, also contends that "he was not" in any of the recorded videos that were shown to him by the DHO officer during his DHO hearing, but regardless of the preponderance of

Jan. 8, 2018
DATE

(SEE, ATTACHMENT)


SIGNATURE OF REQUESTER

Part B—RESPONSE

Ex: C-34

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER:

927489R1

Part C—RECEIPT

CASE NUMBER:

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: _____

evidence in favor of inmate D/C, said DHO officer found D/C, guilty "without any evidence". Therefore, D/C, request that inmate WILLIAM'S, statement, & both videos be reviewed by the Northeast Regional Office, & dismiss any, & all sanctions that were implemented by the DHO officer on Sept. 26, 2017, against D/C, regarding the incident report under DHO report #3023980. SEE, Ex: K-3 - K-5, herewith.

REMEDY: D/C, request that the Aug. 20, 2017, incident report under DHO report #3023980, be expunge immediately.

Respectfully Requested By:


DOUGLAS K. CROSS

DATED: Jan. 8, 2018

c.c. File; & Cert. Mail to the
Northeast Regional Office
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Ex: C-35

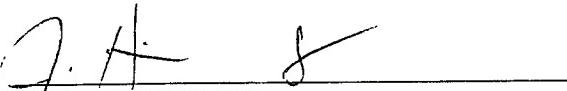
CROSS, Douglas
Reg. No. 50101-056
Appeal No. 927489-R1
Page One

Part B - Response

You appeal the September 26, 2017 decision of the Discipline Hearing Officer (DHO) at FCI Fort Dix finding you committed the prohibited act of Possession of a Hazardous Tool, Code 108 Incident Report No. 3023980. You deny committing the prohibited act, and request that the Incident Report be expunged.

A thorough review of the record reveals questions concerning the disciplinary process. Based on this review, it was determined this action and the sanctions imposed will be expunged from your disciplinary record. Accordingly, your appeal is granted.

Date: February 1, 2018



M.D. CARVAJAL
Regional Director

Ex:C-36

FCI Fort Dix, NJ

Drinking water contaminated by dangerous counts of "Coliform Bacteria. Test conducted by Bioenvironmental Engineering 3457 Neely Rd., MDL, NJ 08641 phone # 609-754-9057.

State water System ID# NJ0325001
Last date tested: July, 2012. Staff brings in own water as per several cos.

Ex:C-37

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White Deer, Pa. 17887

Without Prejudice U.C.C.I.-207/308)

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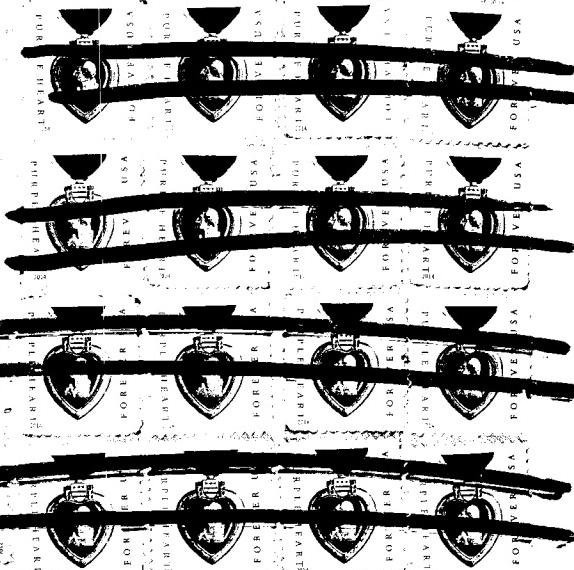
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